

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1407

Citations Affected: IC 3; IC 5-4-1-3; IC 9-16-4-1.

Synopsis: Various election law matters. Makes the following changes to election law: (1) Changes the certification process for voting systems. (2) Establishes a voting systems technical oversight program. (3) Requires county election boards to perform public tests of electronic voting systems before election day and makes other changes relating to testing voting systems. (4) Establishes civil penalties for violations of statutes concerning the use of voting systems in Indiana. (5) Requires a county that uses a punch card voting system to enter into a contract, not later than July 1, 2005, for a voting system certified for use in Indiana for delivery not later than January 1, 2006. (6) Authorizes the secretary of state to purchase a voting system for the county if the county does not act. (7) Permits a voting system previously certified for use in Indiana to continue to be used after the certification expires if the voting system complies with the requirements of HAVA. (8) Makes other technical changes relating to voting systems. (9) Provides that a person who has been notified of a proposed civil penalty for violation of campaign finance laws may enter into a settlement agreement with the election division. (10) Changes the schedule and requirements for filing campaign finance reports by candidates for a state office. (11) Permits the election division to authorize county adoption of a proposed precinct establishment order submitted by a county if a voter of the county does not file an objection to the proposed order. (12) Requires the counting of a defective provisional ballot that is defective solely because of an act or a failure to act of an election officer unless fraud, tampering, or misconduct affecting the integrity of the ballot is demonstrated. Provides that a county election board can determine by a majority vote of the members not to count such a provisional ballot. (13) Provides for an additional seven days for the certification of election results and the filing of recounts or contests. (14) Provides that personal service upon an individual in a state recount or contest proceeding is not required if the individual's attorney has filed an appearance with the election division and is provided with service. (15) Makes the provision imposing the 1% requirement to determine the amount of the cash deposit needed for a recount consistent for both petitions and cross-petitions. (16) Permits certain parties to a recount or contest to file a joint motion to dismiss before the completion of the recount or contest. (17) Specifies that recounts and contests may be conducted and votes counted for an office only in a precinct within the election district for the office. (18) Amends statutes relating to impoundment of records and equipment by order of the state recount commission. (19) Provides that the state recount commission's authority, in case of fraud or misconduct, to order that none of the ballots cast in a precinct be counted applies to ballots cast by any voting method. (20) Assigns responsibility for custody of

original voter registration records for purposes of scanning the records for inclusion of information on the statewide voter registration list. (21) Eliminates the requirement that the governor and the lieutenant governor take the oath of office in the presence of both houses of the general assembly. (22) Requires all full service license branches to be open on the day before election day and on election day to issue driver's licenses and state identification cards. (23) Removes obsolete references to voting machines, punch card voting systems, and paper ballots. (24) Repeals obsolete statutes relating to voting machines. **(This conference committee report adds the provisions relating to campaign finance, adoption of precinct establishment orders, counting provisional ballots, recounts and contests, custody of voter registration records, and the oath of office from ESB 480. The conference committee report adds the provisions relating to the time for certification of election results and the operation of full service license branches from ESB 242. The conference committee report reconciles conflicts with SEA 14, SEA 15, and ESB 341, and makes other technical changes.)**

Effective: Upon passage; July 1, 2005.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1407 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 3-5-2-3 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2005]: Sec. 3. "Ballot" means:
- 4 (1) the paper ballot prepared, printed, and supplied for use at an
- 5 election;
- 6 (2) the ballot label prepared, printed, and supplied for use on the
- 7 front of ~~a voting machine or an~~ electronic voting system; or
- 8 (3) the ballot card prepared, printed, and supplied for use in a ballot
- 9 card voting system.
- 10 SECTION 2. IC 3-5-2-4 IS AMENDED TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2005]: Sec. 4. "Ballot card" refers to ~~either a~~
- 12 ~~punch card ballot or~~ an optical scan ballot.
- 13 SECTION 3. IC 3-5-2-4.5 IS AMENDED TO READ AS FOLLOWS
- 14 [EFFECTIVE JULY 1, 2005]: Sec. 4.5. "Ballot card voting system"
- 15 refers to ~~either a punch card voting system or~~ an optical scan voting
- 16 system.
- 17 SECTION 4. IC 3-5-2-5 IS AMENDED TO READ AS FOLLOWS
- 18 [EFFECTIVE JULY 1, 2005]: Sec. 5. "Ballot label" means:
- 19 (1) the printed strip or sheet of cardboard or paper, supplied for use
- 20 on ~~a voting machine or an~~ electronic voting system, that contains
- 21 the names of the candidates and the public questions on the ballot;
- 22 or
- 23 (2) the ~~booklet, pamphlet, or other~~ material, supplied for use with

a ballot card voting system, that contains those names and questions.

SECTION 5. IC 3-5-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. "Marking device" means:

~~(1) an apparatus in which paper ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter;~~

~~(2) (1) a pencil for marking a paper ballot or ballot card; or~~

~~(3) (2) an approved touch-sensitive device that automatically registers a vote on an electronic voting system.~~

SECTION 6. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 48.5. "Testing authority" means an independent test authority ~~as described in:~~ **or independent laboratory:**

(1) as described in the Voting System Standards issued by the Federal Election Commission on April 30, 2002; or

~~(2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.~~

(2) accredited under Section 231 of HAVA (42 U.S.C. 15371).

SECTION 7. IC 3-5-2-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 52. "Voting method" means the use of:

(1) paper ballots;

~~(2) voting machines;~~

~~(3) (2) ballot card voting systems;~~

~~(4) (3) electronic voting systems; or~~

~~(5) (4) any combination of these;~~

to register votes in a precinct.

SECTION 8. IC 3-6-4.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The election division shall do the following:

~~(1) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.~~

~~(2) (1) Maintain complete and uniform descriptions and maps of all precincts in Indiana.~~

~~(3) (2) Promptly update the information required by subdivision (2) (1) after each precinct establishment order is filed with the commission under IC 3-11-1.5.~~

~~(4) (3) Issue media watcher cards under IC 3-6-10-6.~~

~~(5) (4) Prepare and transfer to the department of state revenue voter registration affidavits for inclusion in state adjusted gross income tax booklets under IC 6-8.1-3-19.~~

~~(6) After December 31, 2003; (5) Serve in accordance with 42 U.S.C. 1973ff-1(b) as the office in Indiana responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.~~

~~(7) (6) As required by 42 U.S.C. 1973ff-1(c), submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number~~

of absentee ballots:

(A) transmitted to absent uniformed services voters and overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas voters and cast in the election.

~~(8)~~ (7) Implement the state plan in accordance with the requirements of HAVA (42 U.S.C. 15401 through 15406) and this title, and appoint members of the committee established under 42 U.S.C. 15405.

~~(9)~~ (8) Submit reports required under 42 U.S.C. 15408 to the federal Election Assistance Commission concerning the use of federal funds under Title II, Subtitle D, Part I of HAVA.

SECTION 9. IC 3-6-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Each county election board, in addition to duties otherwise prescribed by law, shall do the following:

(1) Adopt and amend a written plan to implement NVRA within the county.

(2) Conduct all elections and administer the election laws within the county, except as provided in IC 3-8-5 and IC 3-10-7 for town conventions and municipal elections in certain small towns.

(3) Prepare all ballots. ~~except those prepared by the election division.~~

(4) Distribute all ballots and pasters to all of the precincts in the county.

(b) This subsection does not apply to pasters to be attached to ballots during the final three (3) days before an election. Not later than the Monday before distributing ballots, pasters, and voting systems to the precincts in the county, the county election board shall notify the county chairman of each major political party and, upon request, the chairman of any other bona fide political party in the county, that sample ballots and pasters are available for inspection.

SECTION 10. IC 3-6-6-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) In a precinct where the voting is by any voting method except entirely by paper ballot, the poll clerks of the precinct shall perform all the duties connected with voting by ~~voting machine~~, ballot card voting system or electronic voting system, and the assistant poll clerks shall perform all the duties connected with voting by paper ballot. It is necessary for only the two (2) assistant poll clerks to place their initials on the back of the paper ballots.

(b) The poll clerks shall tally the vote cast by paper ballot, and they alone shall sign the election certificates and returns. However, the precinct election board may call upon the assistant poll clerks to assist the poll clerks in any of their duties.

SECTION 11. IC 3-6-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A watcher appointed under this chapter is entitled to:

(1) enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed;

(2) inspect the paper ballot boxes, ~~voting machines~~, ballot card voting system, or electronic voting system before votes have been cast;

(3) inspect the work being done by any precinct election officer;

(4) enter, leave, and reenter the polls at any time on election day;

(5) witness the calling and recording of the votes ~~the reading of the totals from the voting machines~~; and any other proceedings of the

precinct election officers in the performance of official duties;

(6) receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2-5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate;

(B) the names of all candidates at a general, municipal, or special election and the number of votes cast for each candidate; or

(C) the vote cast for or against a public question;

(7) accompany the inspector and judge in delivering the tabulation and election returns to the county election board by the most direct route;

(8) be present when the inspector takes a receipt for the tabulation and election returns delivered to the county election board; and

(9) call upon the election sheriffs to make arrests.

SECTION 12. IC 3-6-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes ~~the reading of the totals from the voting machines~~; and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2-5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(1) of this chapter; or

(B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation

and the election returns delivered to the county election board.

(9) Call upon the election sheriffs to make arrests.

SECTION 13. IC 3-6-10-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. A watcher appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes ~~the reading of the totals from the voting machines~~, and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, ~~IC 3-12-2-5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

SECTION 14. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Each circuit court clerk shall, not later than noon **on the second** Monday after the day the primary election is held, send to the election division by certified mail or hand delivery one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

SECTION 15. IC 3-8-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Each circuit court clerk, not later than noon **on the second** Monday after a primary election, shall furnish the election division with a complete list of all delegates elected at the primary election to the state convention of a political party. The list must include the address of each delegate and the United States congressional district in which each delegate resides.

SECTION 16. IC 3-8-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. Candidates shall be nominated or elected at a state convention by using ~~voting machines~~, ballot card systems or electronic voting systems. However, if there is no contest for an office, the nomination or election may be by motion and acclamation.

SECTION 17. IC 3-8-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The state chairman of the

political party holding a state convention shall appoint an inspector and two (2) poll clerks to attend each voting ~~machine~~ or system at the convention. Each candidate may have one (1) watcher at each voting ~~machine~~ or system to check the voting ~~machine~~ or system before and after each ballot and to check the work of any election officer. The inspector and poll clerks:

- (1) shall take an oath to perform their duties faithfully and to the best of their abilities before anyone entitled to administer an oath;
- (2) must be qualified in relationship to candidates in the same manner as precinct election officers under IC 3-6-6-7; and
- (3) are subject to the same penalties as precinct election officers.

SECTION 18. IC 3-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each circuit court clerk, not later than noon on the ~~first~~ **second** Monday after a primary election conducted in a year in which a general election will be held, shall furnish the election division with a complete list of all:

- (1) candidates nominated; and
- (2) state convention delegates elected;

at the primary election.

(b) The list must include the address of each candidate and delegate and the United States congressional district in which each candidate and delegate resides.

SECTION 19. IC 3-9-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The election division shall develop a filing and coding system consistent with the purposes of this article. The election division and each county election board shall use the filing and coding system. The coding system must provide:

- (1) not more than ten (10) codes to account for various campaign expenditure items; and
- (2) a clear explanation of the kinds of expenditure items that must be accounted for under each code.

(b) The election division shall develop and use a computer system to store campaign finance reports required to be filed under IC 3-9-5-6, IC 3-9-5-10, and IC 3-9-5-20.1. The computer system must enable the election division to do the following:

- (1) Identify all candidates or committees that received contributions from a contributor over the past three (3) years.
- (2) Identify all contributors to a candidate or committee over the past three (3) years.
- (3) Provide for electronic submission, retrieval, storage, and disclosure of campaign finance reports of candidates for the following:
 - (A) Legislative office.
 - (B) State office.

The election division shall provide training at no cost to candidates to enable candidates described in this subdivision to file campaign finance reports electronically.

(c) The election division shall notify each candidate's committee that the election division will provide at the committee's request at no cost a standardized software program to permit the committee to install the software on a computer and generate an electronic version of the

reports and statements required to be filed with the election division under this article. However, the election division is not required to provide or alter the software program to make the program compatible for installation or operation on a specific computer.

(d) This subsection applies after December 31, 2005, to the following committees:

(1) A committee for a candidate seeking election to a state office.

(2) A political action committee that has received more than fifty thousand dollars (\$50,000) in contributions since the close of the previous reporting period.

The committee must file electronically the report or statement required under this article with the election division using a standardized software program supplied to the committee without charge under subsection (c) or another format approved by the election division. An electronic filing approved by the election division under this subsection may not require manual reentry into a computer system of the data contained in the report or statement in order to make the data available to the general public under subsection (g).

~~(d)~~ **(e)** This subsection applies to an electronic submission under subsection (b)(3). An electronic submission must be in a format previously approved by the commission that permits the election division to print out a hard copy of the report after the receipt of the electronic submission from the candidate. Filing of a report occurs under IC 3-5-2-24.5 on the date and at the time electronically recorded by the election division's computer system. If a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed under this article to correct the discrepancy.

~~(e)~~ **(f)** The election division is not required to accept an electronic submission unless the submission complies with subsection (b)(3). Upon receiving approval from the commission, the election division may accept an electronic submission from candidates, committees, or persons described in subsection (b)(3).

~~(f)~~ **(g)** The election division shall make campaign finance reports stored on the computer system under subsection (b) available to the general public through an on-line service.

SECTION 20. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive

contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a

person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

~~(j)~~ **(k)** All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(k)~~ **(l)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 21. IC 3-9-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) Notwithstanding section 16 of this chapter, if a person is notified by the election division that the commission may assess a proposed civil penalty under this article against the person, the person may enter into an agreement with**

the election division to pay the proposed penalty and waive a hearing before the commission otherwise required under section 16 of this chapter.

(b) An agreement entered into under this section must:

- (1) provide for the payment of the entire proposed civil penalty not later than the date of the execution of the agreement; and
- (2) be presented to the commission by the election division for ratification at the commission's next regularly scheduled meeting.

SECTION 22. IC 3-9-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) This subsection applies to a candidate's committee **other than a candidate's committee of a candidate for a state office**. Except as otherwise provided in this chapter, each committee, the committee's treasurer, and each candidate shall complete a report required by this chapter current and dated as of the following dates:

- (1) Twenty-five (25) days before the nomination date.
- (2) Twenty-five (25) days before the general, municipal, or special election.
- (3) The annual report filed and dated as required by section 10 of this chapter.

(b) This subsection applies to a regular party committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required by this chapter current and dated as of the following dates:

- (1) Twenty-five (25) days before a primary election.
- (2) Twenty-five (25) days before a general, municipal, or special election.
- (3) The date of the annual report filed and dated as required under section 10 of this chapter.

(c) This subsection applies to a legislative caucus committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required under this chapter current and dated as of the following dates:

- (1) Twenty-five (25) days before a primary election conducted in an even-numbered year.
- (2) Twenty-five (25) days before a general election conducted in an even-numbered year.
- (3) The date of the annual report filed and dated as required under section 10 of this chapter.

A legislative caucus committee is not required to file any report concerning the committee's activity during an odd-numbered year other than the annual report filed and dated under section 10 of this chapter.

(d) This subsection applies to a political action committee. Except as otherwise provided in this chapter, each committee and the committee's treasurer shall complete a report required by this chapter current and dated as of the following dates:

- (1) Twenty-five (25) days before a primary election.
- (2) Twenty-five (25) days before a general, municipal, or special election.
- (3) The date of the annual report filed and dated as required under

section 10 of this chapter.

(e) **This subsection applies to a candidate's committee of a candidate for a state office. A candidate's committee is not required to file a report under section 8.2, 8.4, or 8.5 of this chapter. For a year in which an election to the state office is held, the treasurer of a candidate's committee shall file the following reports:**

(1) A report covering the period from January 1 through March 31 of the year of the report. A report required by this subdivision must be filed not later than noon April 15 of the year covered by the report.

(2) A report covering the period from April 1 through June 30 of the year of the report. A report required by this subdivision must be filed not later than noon July 15 of the year covered by the report.

(3) A report covering the period from July 1 through September 30 of the year of the report. A report required by this subdivision must be filed not later than noon October 15 of the year covered by the report.

(4) A report covering the period from October 1 of the year of the report through the date that is fifteen (15) days before the date of the election. A report required by this subdivision must be filed not later than noon seven (7) days before the date of the election.

(5) A report covering the period from the date that is fifteen (15) days before the date of the election through December 31 of the year of the report. A report required by this subdivision must:

(A) provide cumulative totals from January 1 through December 31 of the year of the report; and

(B) be filed not later than the deadline specified in section 10 of this chapter.

SECTION 23. IC 3-9-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section:

(1) applies to a candidate for nomination to an office in a convention who becomes a candidate less than twenty-five (25) days before the nomination date for a candidate chosen at a convention; and

(2) does not apply to a candidate for nomination to a state office by a major political party at a convention conducted under IC 3-8-4.

(b) A candidate is not required to file a report in accordance with section 6(a)(1) of this chapter. The candidate shall file the candidate's first report not later than noon twenty (20) days after the nomination date for a candidate chosen at a convention.

(c) The reporting period for the first report required for a candidate begins on the date that the individual became a candidate and ends on the day following the adjournment of the convention.

SECTION 24. IC 3-9-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek

1 nomination at a caucus or state convention for election to an office to
 2 which this article applies, the treasurer of the candidate's committee
 3 shall file only the report required by section 10 of this chapter.

4 (b) This subsection applies to a candidate who holds one (1) office
 5 and is a candidate for a different office (or has filed a statement of
 6 organization for an exploratory committee without indicating that the
 7 individual is a candidate for a specific office). The treasurer of the
 8 candidate's committee for the office the candidate holds shall file the
 9 following reports:

10 (1) If the committee spends, transfers in, or transfers out at least ten
 11 thousand dollars (\$10,000) from January 1 until twenty-five (25)
 12 days before the primary election, the treasurer shall file a
 13 preprimary report under section 6 of this chapter.

14 (2) If the committee spends, transfers in, or transfers out at least ten
 15 thousand dollars (\$10,000) from twenty-five (25) days before the
 16 primary election until twenty-five (25) days before the general
 17 election, the treasurer shall file a pregeneral election report under
 18 section 6 of this chapter.

19 (3) The report required under section 10 of this chapter.

20 (c) This subsection applies to a candidate who is required to file a
 21 preprimary report or preconvention report under section 6 of this
 22 chapter and who:

23 (1) is defeated at the primary election or convention; or

24 (2) withdraws or is disqualified as a candidate before the general
 25 election.

26 The treasurer of a candidate's committee described by this subsection
 27 is not required to file a pregeneral election report under section 6 of this
 28 chapter but shall file the report required by section 10 of this chapter.

29 (d) This subsection applies to a candidate for election to a city office
 30 or a town office. If a municipal primary is not conducted in the
 31 municipality by one (1) or more parties authorized to conduct a
 32 primary, the candidate must file a report in accordance with the
 33 schedule set forth in section 6 of this chapter as if the primary were
 34 conducted. If a municipal election is not conducted in the municipality,
 35 the candidate must file a report in accordance with section 6 of this
 36 chapter as if the municipal election were conducted.

37 **(e) This subsection applies to a candidate's committee of a**
 38 **candidate for a state office. For a year in which an election to the**
 39 **state office is not held, the treasurer of a candidate's committee**
 40 **shall file the following reports in addition to any other report**
 41 **required by this article:**

42 **(1) A report covering the period from January 1 through June**
 43 **30 of the year of the report. A report required by this**
 44 **subdivision must be filed not later than noon July 15 of the**
 45 **year covered by the report.**

46 **(2) A report covering the period from July 1 through December**
 47 **31 of the year of the report. A report required by this**
 48 **subdivision must:**

49 **(A) provide cumulative totals from January 1 through**
 50 **December 31 of the year of the report; and**

51 **(B) be filed by the deadline specified in section 10 of this**

chapter.

SECTION 25. IC 3-9-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The treasurer of each committee shall file a report each year that is complete as of December 31 of the previous year and covers the period since the last report. This annual report is due by noon:

(1) the third Wednesday in January, in the case of:

(A) a candidate's committee;

(B) a legislative caucus committee; or

(C) a political action committee; or

(2) March 1, in the case of a regular party committee.

(b) A candidate's committee of a candidate for a state office that files a report:

(1) under section 6(e)(5) or 9(e)(2) of this chapter; and

(2) by the deadline specified under subsection (a) for filing a candidate's committee report;

is not required to file an additional report under this section.

SECTION 26. IC 3-9-5-20.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.1. (a) This section:

(1) applies only to a large contribution that is received by a candidate, the candidate's committee, or the treasurer of the candidate's committee; and

(2) does not apply to a candidate for a state office, the candidate's committee, or the treasurer of the candidate's committee.

(b) As used in this section, "election" refers to any of the following:

(1) A primary election.

(2) A general election.

(3) A municipal election.

(4) A special election.

(5) For candidates nominated at a state convention, the state convention.

(c) As used in this section, "large contribution" means contributions:

(1) that total at least one thousand dollars (\$1,000); and

(2) that are received:

(A) not more than twenty-five (25) days before an election; and

(B) not less than forty-eight (48) hours before an election.

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division or a county election board not later than forty-eight (48) hours after the contribution is received. A candidate for a legislative office shall file a report required by this section with the election division and the county election board as required by section 3 of this chapter. A report filed under this section may be filed by facsimile (fax) transmission.

(e) A report required by subsection (d) must contain the following information for each large contribution:

(1) The name of the person making the contribution.

(2) The address of the person making the contribution.

(3) If the person making the contribution is an individual, the individual's occupation.

(4) The total amount of the contribution.

(5) The dates and times the contributions making up the large contribution were received by the treasurer, the candidate, or the candidate's committee.

(f) The commission shall prescribe the form for the report required by this section.

SECTION 27. IC 3-9-5-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 22. (a) This section applies only to a large contribution that is received by a candidate for a state office, the candidate's committee, or the treasurer of the candidate's committee.**

(b) As used in this section, "election" refers to any of the following:

(1) For a candidate nominated at a primary election, the primary election.

(2) For a candidate nominated at a state convention, the state convention.

(3) A general election.

(c) As used in this section, "large contribution" means either of the following:

(1) Contributions:

(A) that total at least one thousand dollars (\$1,000); and

(B) that are received:

(i) after the end of a reporting period and before the deadline for the candidate's committee to file a report under section 6 of this chapter; and

(ii) not less than forty-eight (48) hours before an election.

(2) A single contribution that is at least ten thousand dollars (\$10,000) that is received at any time.

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division not later than:

(1) forty-eight (48) hours after a contribution described by subsection (c)(1) is received; or

(2) noon seven (7) days after a contribution described by subsection (c)(2) is received.

(e) A report filed under this section may be filed by facsimile transmission or as an electronic report when the requirements of IC 3-9-4 or this chapter have been met. A report required by subsection (d) must contain the following information for each large contribution:

(1) The name of the person making the contribution.

(2) The address of the person making the contribution.

(3) If the person making the contribution is an individual, the individual's occupation.

(4) The total amount of the contribution.

(5) The dates and times the contributions making up the large contribution described in subsection (c)(1) or a large contribution described in subsection (c)(2) were received by the treasurer, the candidate, or the candidate's committee.

(f) The commission shall prescribe the form for the report

1 **required by this section.**

2 SECTION 28. IC 3-10-1-18 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as
4 provided by subsection (b), the names of all candidates for each office
5 who have qualified under IC 3-8 shall be arranged in alphabetical order
6 by surnames under the designation of the office.

7 (b) This subsection applies to a county having a population of more
8 than four hundred thousand (400,000) but less than seven hundred
9 thousand (700,000). The names of all candidates for each office who
10 have qualified under IC 3-8, except for a school board office, precinct
11 committeeman, or state convention delegate, shall be arranged in
12 random order by surnames under the designation of the office. The
13 random order shall be determined using a lottery. The lottery held in
14 accordance with this subsection shall be conducted in public by the
15 county election board. The lottery shall be held not later than fifteen
16 (15) days following the last day for a declaration of candidacy under
17 IC 3-8-2-4. All candidates whose names are to be arranged by way of
18 the lottery shall be notified at least five (5) days prior to the lottery of
19 the time and place at which the lottery is to be held. Each candidate
20 may have one (1) designated watcher, and each county political party
21 may have one (1) designated watcher who shall be allowed to observe
22 the lottery procedure.

23 (c) For paper ballots, the left margin of the ballot for each political
24 party must show the name of the uppermost candidate printed to the
25 right of the number 1, the next candidate number 2, the next candidate
26 number 3, and so on, consecutively to the end of the ballot as
27 prescribed in section 19 of this chapter. The same order shall be
28 followed for the printing of ballot labels and their placement on the
29 ~~voting machine~~ or electronic voting system and for the printing of ballot
30 cards.

31 (d) This subsection applies to a county having a population of more
32 than four hundred thousand (400,000) but less than seven hundred
33 thousand (700,000). If there is insufficient room on a row to list each
34 candidate of a political party, a second or subsequent row may be
35 utilized. However, a second or subsequent row may not be utilized
36 unless the first row, and all preceding rows, have been filled.

37 SECTION 29. IC 3-10-1-19, AS AMENDED BY SEA 14-2005,
38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2005]: Sec. 19. (a) The ballot for a primary election shall be
40 printed in substantially the following form for all the offices for which
41 candidates have qualified under IC 3-8:

42 OFFICIAL PRIMARY BALLOT

43 _____ Party

44 For paper ballots, print: To vote for a person, make a voting mark (X
45 or) on or in the box before the person's name in the proper column.
46 For punch card ballots, print: To vote for a person, punch through the
47 chad before the number assigned to the person's name in the proper
48 column. For optical scan ballots, print: To vote for a person, darken or
49 shade in the circle, oval, or square (or draw a line to connect the arrow)
50 that precedes the person's name in the proper column. For optical scan
51 ballots that do not contain a candidate's name, print: To vote for a

person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one

(1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one

(1) judge of the superior court.

(C) Judge of the probate court.

(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.

(E) Prosecuting attorney.

(F) ~~Clerk of the~~ Circuit court **clerk**.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:

(A) Township assessor.

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

(B) Clerk or clerk-treasurer.

- 1 (C) Judge of the city court.
 2 (D) City-county council member or common council member.
 3 (7) Town offices:
 4 (A) Clerk-treasurer.
 5 (B) Judge of the town court.
 6 (C) Town council member.
 7 (c) The political party offices with candidates for election shall be
 8 placed on the primary election ballot in the following order after the
 9 offices described in subsection (b):
 10 (1) Precinct committeeman.
 11 (2) State convention delegate.
 12 (d) The following offices and public questions shall be placed on the
 13 primary election ballot in the following order after the offices described
 14 in subsection (c):
 15 (1) School board offices to be elected at the primary election.
 16 (2) Other local offices to be elected at the primary election.
 17 (3) Local public questions.
 18 (e) The offices and public questions described in subsection (d) shall
 19 be placed:
 20 (1) in a separate column on the ballot if voting is by paper ballot;
 21 (2) after the offices described in subsection (c) in the form specified
 22 in IC 3-11-13-11 if voting is by ballot card; **or**
 23 (3) either:
 24 (A) on a separate screen for each office or public question; or
 25 (B) after the offices described in subsection (c) in the form
 26 specified in IC 3-11-14-3.5;
 27 if voting is by an electronic voting system. **or**
 28 ~~(4) in a separate column of ballot labels if voting is by voting~~
 29 ~~machine.~~
 30 (f) A public question shall be placed on the primary election ballot in
 31 the following form:
 32 (The explanatory text for the public question,
 33 if required by law.)
 34 "Shall (insert public question)?"
 35 ☐ YES
 36 ☐ NO
 37 SECTION 30. IC 3-10-1-23 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. In a primary
 39 election in a county having a city, ~~voting machines~~, ballot card voting
 40 systems and electronic voting systems shall be employed as available
 41 and adaptable and shall be supplemented by paper ballots as necessary.
 42 However, this section does not require the purchase of ~~voting machines~~,
 43 ballot card voting systems or electronic voting systems for a primary
 44 election.
 45 SECTION 31. IC 3-10-1-27 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If ~~voting machines~~
 47 ~~or~~ electronic voting systems are used in a precinct, one (1) of the poll
 48 clerks shall give a printed political party identification card to a voter
 49 after the voter signs the poll list. Before entering the ~~voting machine or~~
 50 voting booth, the voter must give the party identification card to a
 51 judge, and the judge shall set or have the ~~voting machine or~~ electronic

1 voting system set to allow the voter to vote only for the candidates of
 2 the voter's party. After the ~~machine or~~ system is set, the voter may
 3 register a vote upon it within the time provided under

4 ~~(1) IC 3-11-12-29.5, for a voting machine; or~~

5 ~~(2) IC 3-11-14-26, for an electronic voting system.~~

6 SECTION 32. IC 3-10-1-28 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. After setting the
 8 ~~voting machine or~~ electronic voting system, the judge shall immediately
 9 deposit the political party identification card in a sealed container
 10 provided for that purpose. After the polls have closed, all party
 11 identification cards shall be counted and compared with the total
 12 number of votes cast in the election. All party identification cards must
 13 be of durable quality and the same color irrespective of the party that
 14 is designated.

15 SECTION 33. IC 3-10-1-33 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The county
 17 election board shall also make an additional duplicate showing the
 18 votes cast for each candidate required to file a declaration of candidacy
 19 with the election division under IC 3-8-2.

20 (b) The circuit court clerk shall, not later than noon on the **second**
 21 Monday following the primary election, send to the election division by
 22 certified mail or hand deliver to the election division one (1) complete
 23 copy of all returns for these candidates.

24 SECTION 34. IC 3-10-7-31 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. Upon request of a
 26 town election board, the county election board of each county in which
 27 the town is located shall furnish any available equipment that is
 28 necessary for a municipal election, including ~~voting machines~~, ballot
 29 card voting systems and electronic voting systems. The town shall pay
 30 the expense of moving the equipment to and from the polls and for any
 31 loss of or damage to the equipment.

32 SECTION 35. IC 3-11-1.5-12 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. If a county
 34 executive adopts the use of ~~voting machines~~, ballot card voting systems
 35 or electronic voting systems in a county in which ~~voting machines~~,
 36 ballot card voting systems or electronic voting systems have not been
 37 previously used, the county executive may establish precincts after
 38 primary election day and before August 1 by combining two (2) or more
 39 precincts into one (1) precinct.

40 SECTION 36. IC 3-11-1.5-18 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. **(a)** If the
 42 ~~co-directors or designated employee election division~~ determines that
 43 the proposed precinct establishment order would comply with this
 44 chapter, the ~~co-directors shall advise the county executive that the~~
 45 ~~co-directors will recommend that the commission approve the proposed~~
 46 ~~order based on the order's compliance~~ **election division shall issue an**
 47 **order authorizing the county executive to establish the proposed**
 48 **precincts.**

49 **(b) The order issued by the election division under subsection (a)**
 50 **must state that the election division finds that the proposed**
 51 **precincts would comply** with the standards set forth in this chapter.

1 The election division shall promptly provide a copy of the order to
2 the county executive.

3 (c) The county executive must give notice of the proposed order
4 to the voters of the county by one (1) publication under IC 5-3-1-4.
5 The notice must state the following:

6 (1) The name of each existing precinct whose boundaries would
7 be changed by the adoption of the proposed order by the
8 county.

9 (2) That any registered voter of the county may object to the
10 proposed order by filing a sworn statement with the election
11 division setting forth the voter's specific objections to the
12 proposed order and requesting that a hearing be conducted by
13 the commission under IC 4-21.5.

14 (3) The mailing address of the election division.

15 (4) The deadline for filing the objection with the election
16 division under this section.

17 (d) An objection to a proposed precinct establishment order must
18 be filed not later than noon ten (10) days after the publication of
19 the notice by the county executive.

20 (e) If an objection is not filed with the election division by the
21 date and time specified under subsection (d), the election division
22 shall promptly notify the county executive. The county executive
23 may proceed immediately to adopt the proposed order.

24 (f) If an objection is filed with the election division by the date
25 and time specified under subsection (d), the election division shall
26 promptly notify the county executive. The county executive may
27 not adopt the proposed order until the commission conducts a
28 hearing under IC 4-21.5 and determines whether the proposed
29 precincts would comply with the standards set forth in this chapter.

30 SECTION 37. IC 3-11-1.5-22 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. When a county
32 executive receives a proposed order approved by:

33 (1) the election division; or

34 (2) the commission under section 18(f) of this chapter, the county
35 executive may issue the order.

36 SECTION 38. IC 3-11-1.5-27 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. Not later than
38 fourteen (14) days following notice of final approval of a precinct
39 establishment order by the commission under section 18(f) of this
40 chapter, the county executive shall give notice of the approval by one
41 (1) publication under IC 5-3-1-4.

42 SECTION 39. IC 3-11-1.5-31 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) This
44 section applies to a proposed precinct establishment order that
45 requires that a hearing by the commission be conducted under this
46 chapter.

47 (b) After the ~~co-directors~~ have election division has reviewed the
48 proposed precinct establishment order, and the order has been revised,
49 if necessary, to comply with this chapter, the commission shall:

50 (1) approve a proposed precinct establishment order under this
51 section ~~no~~ not later than the following January 31; and

(2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held.

SECTION 40. IC 3-11-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following statement shall be printed in underlined print at the extreme top of a ballot to be used in an election covered by this title: ~~(or in the voting instructions for a voting machine)~~: "It is a crime to falsify this ballot or to violate Indiana election laws."

SECTION 41. IC 3-11-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. All written or printed instructions must be at the top of the ballot ~~(or above the ballot labels on a voting machine)~~ immediately below the statement required by section 7 of this chapter. No other instructions or writing may appear at any other place on the ballot, including the ballot for federal and state offices, except as specified by this title. The instructions must be in English and any other language that the board considers necessary, clear, concise, and written so that a voter will not be confused about the effect of the voter's voting mark and vote.

SECTION 42. IC 3-11-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ If, in the judgment of a county election board, the number of voters in a precinct of the county where a voting **machine system** is used for voting is so large that the **machine voting system** in use will not be sufficient to register the vote of all the voters in the precinct, the board may use paper ballots in addition to the ~~machine~~ **voting system**. The voting by paper ballot is subject to all the restrictions prescribed by this article.

~~(b) The county election board shall then notify the election division of the board's determination and of the estimated number of state and presidential ballots that will be required in the precinct.~~

SECTION 43. IC 3-11-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~total~~ ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

- (1) they have been delivered to the precinct election board to which they are directed; and
- (2) the precinct election board is fully organized and ready for the reception of votes.

(b) The ~~total~~ provisional ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, separate from the bag described in subsection (a), which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the provisional ballots. The provisional ballot packages may not be opened until:

- (1) they have been delivered to the precinct election board to which

they are directed; and

(2) the precinct election board is fully organized and ready to receive votes.

SECTION 44. IC 3-11-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Each county election board shall have printed in at least 14 point type on cards in English, braille, and any other language that the board considers necessary, the following:

(1) Instructions for the guidance of voters in preparing their ballots.

(2) Instructions explaining the procedure for write-in voting.

(3) Write-in voting notice cards that must be posted in each precinct that utilizes a ~~voting machine~~ or ballot card voting system that does not permit write-in voting. The notice cards must direct voters who want to cast write-in votes to request a write-in ballot from an election official.

(b) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards.

SECTION 45. IC 3-11-3-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) This section applies to a county having a population of more than four hundred thousand (400,000), but less than seven hundred thousand (700,000).

(b) In each precinct where voting is by ~~voting machine~~ or electronic voting system, the county election board shall provide the following to be used if a ~~voting machine~~ or an electronic voting system malfunctions:

(1) The following number of paper ballots:

(A) Not less than ten (10) if the number of registered voters in the precinct is not more than three hundred (300).

(B) Not less than twenty-five (25) if the number of registered voters in the precinct is more than three hundred (300).

(2) The necessary supplies and equipment as required by IC 3-11-11.

(c) Upon notice that a ~~voting machine~~ or an electronic voting system is out of order or fails to work, the precinct election board shall make the paper ballots provided under subsection (b) available to voters. The precinct election board shall contact the county election board to obtain additional ballots.

(d) Upon notice that a ~~voting machine~~ or an electronic voting system is out of order or fails to work, the county election board shall deliver additional necessary supplies to any precinct in the county, including additional paper ballots.

SECTION 46. IC 3-11-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The legislative body of a county may establish a cumulative fund under IC 6-1.1-41 to provide funds for the purchase of ~~voting machines~~, ballot card voting systems or electronic voting systems.

SECTION 47. IC 3-11-6.5-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) When approving applications for reimbursement for voting systems under this

chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

(b) This section expires January 1, 2006.

SECTION 48. IC 3-11-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ The commission must approve a ballot card voting system before it may be used in an election.

~~(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.~~

SECTION 49. IC 3-11-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ballot card voting system must permit a voter to vote either:

- (1) a straight party ticket for all of the candidates of a political party by a single mark ~~or punch~~ on each ballot card;
- (2) a split ticket for the candidates of different political parties and for independent candidates; or
- (3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

SECTION 50. IC 3-11-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a)** The commission shall:

- (1) require the vendor to have tests conducted concerning the suitability compliance of a ballot card voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and**
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;**

before determining whether to approve the **application for certification of a ballot card voting system.**

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this section.

(c) A ballot card voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(d) An approval of a ballot card voting system under this chapter expires on the date specified in section 19(a) of this chapter.

SECTION 51. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. **(a) A vendor may apply for approval of a proposed improvement or change to a ballot card voting system shall be reported to the election division by:**

- ~~(1) the vendor, if a vendor is involved in the proposed change; and~~
- ~~(2) the county election board, if a county is proposing the change;~~

that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the **application for the** improvement or change is approved by the commission.

~~(b) A report of~~ **An application for approval of an** improvement or change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system

1 tested by an independent laboratory accredited under 42 U.S.C.
 2 15371. The vendor shall pay any testing expenses incurred under
 3 this subsection.

4 ~~(c)~~ (d) The election division (or a ~~competent~~ the person designated
 5 by the commission to act on behalf of the election division under
 6 IC 3-11-16) shall review the **proposed** improvement or change to the
 7 voting system and report the results of the review to the commission.
 8 The commission shall determine, within a reasonable period of time,
 9 whether the improvement or change impairs the accuracy, efficiency,
 10 capacity, or ability to meet the requirements of this chapter or the
 11 standards adopted by the commission under section 2 of this chapter.
 12 The review must indicate:

13 (1) whether the proposed improvement or change has been
 14 approved by an independent laboratory accredited under 42
 15 U.S.C. 15371; and

16 (2) whether the proposed improvement or change would
 17 comply with HAVA and the standards set forth in this chapter
 18 and IC 3-11-15.

19 ~~(d)~~ (e) After the commission has approved the application for an
 20 improvement or change to a ballot card voting system, the
 21 improvement or change may be marketed, sold, leased, installed, or
 22 implemented in Indiana.

23 (f) An approval of an application under this section expires on the
 24 date specified under section 19(a) of this chapter.

25 SECTION 52. IC 3-11-7-16 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. The commission
 27 may not approve the **marketing, sale, lease, installation, or**
 28 **implementation** of a ballot card voting system by a vendor if the
 29 commission finds that the system fails to meet all statutory
 30 requirements.

31 SECTION 53. IC 3-11-7-17 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The election
 33 division (or a ~~competent~~ the person designated by the commission to
 34 act on behalf of the election division under IC 3-11-16) may
 35 periodically examine a ballot card voting system that the commission
 36 has previously approved to determine if **whether** the system is still in
 37 compliance with all statutory requirements **and whether the voting**
 38 **system in use in a county has the same hardware, firmware, and**
 39 **software as the version of the voting system that was certified by**
 40 **the commission.**

41 (b) If the election division or competent person finds that a system
 42 examined under does not comply with subsection (a), fails to meet all
 43 requirements and standards, and the commission concurs in these
 44 findings, the commission may by unanimous vote of all of the members
 45 of the commission, rescind the commission's approval of the voting
 46 system.

47 (c) If the commission's approval is rescinded under subsection (b), the
 48 commission may by unanimous vote of all of the members of the
 49 commission:

50 (1) recommend that use of the system be discontinued; and

51 (2) prohibit the system from being installed, implemented, leased,

1 marketed, **used, permitted to be used**, or sold for use in Indiana
 2 in an election conducted under this title.

3 (d) This subsection applies to a ballot card voting system approved
 4 for its initial certification before:

5 (1) ~~March 25, 1992~~; or

6 (2) a revision of IC 3-11-15 enacted after July 1, 1997, that
 7 imposes additional standards that did not apply to the voting
 8 system at the time of the system's initial certification.

9 The commission may, by unanimous consent of its entire membership,
 10 require the voting system to be tested by an independent authority
 11 designated by the commission. The vendor shall pay any testing
 12 expenses under this subsection.

13 (e) If the independent testing authority determines that a voting
 14 system tested under subsection (d) does not comply with this article, the
 15 commission may, by unanimous consent of its entire membership,
 16 prohibit the system from being leased, marketed, or sold for use in
 17 Indiana in an election conducted under this title.

18 SECTION 54. IC 3-11-7-18 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The ~~commission~~
 20 ~~may require a county executive to~~ **shall** file a copy of all contracts,
 21 leases, or purchase orders, including modifications, for the sale or lease
 22 of voting equipment, systems, or software with the election division.

23 (b) The ~~election division may advise or instruct county officials on~~
 24 ~~the content of the documents listed in subsection (a)~~ **must be filed not**
 25 **later than thirty (30) days after the date of approval of the contract,**
 26 **lease, or purchase order by the county executive.**

27 SECTION 55. IC 3-11-7-19 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as
 29 provided in subsection (g), the approval of a ballot card voting system
 30 under this chapter expires ~~five (5) years after the date the commission~~
 31 ~~approves the system.~~ **October 1 of the year following the year in**
 32 **which presidential electors are elected under IC 3-10-2-3.**

33 (b) The vendor of a voting system approved under this chapter may
 34 request that the approval be renewed by filing an application with the
 35 election division.

36 (c) The application described in subsection (b) must identify all
 37 counties that are currently using the voting system. Before ~~considering~~
 38 **the commission considers** the application for renewal, the election
 39 division shall give notice ~~by regular United States mail~~ of the
 40 application to the circuit court clerk of each county listed in the
 41 application.

42 (d) When the commission considers the application, the commission
 43 shall request comments regarding the renewal of the application from
 44 any interested person. **Before acting on the application for renewal,**
 45 **the commission must receive a report from the person designated**
 46 **under IC 3-11-16 indicating that the hardware, firmware, and**
 47 **software included in the application for renewal of the voting**
 48 **system is identical to the version of the voting system previously**
 49 **certified by the commission.**

50 (e) The commission may, by unanimous consent of its entire
 51 membership, order the voting system to be tested by an independent

authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

~~(f)~~ **(e) After receiving the report under subsection (d) and receiving comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f)** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g)** A vendor subject to subsection ~~(g)~~ **(f)** may continue to provide support during the period specified in subsection ~~(g)~~ **(f)** to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 56. IC 3-11.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon on the **second** Monday following the election.

SECTION 57. IC 3-11-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A person ~~owning or interested in an electronic voting system~~ may request the election division ~~(or a competent person designated by the commission to act on behalf of the election division)~~ to **submit an application for approval of an electronic voting system and report on its accuracy, efficiency, and capacity in the form prescribed by the commission.**

SECTION 58. IC 3-11-7.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) The commission shall:**

- (1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and**
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;**

before determining whether to approve the application for certification of an electronic voting system.

(b) The tests required under this section must be performed by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses under this section.

(c) If the commission finds that an electronic voting system complies with this article, the commission may approve the system. The approved system then may be adopted for use at an election.

(d) An electronic voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(e) An approval of an electronic voting system under this chapter expires on the date specified by section 28(a) of this chapter.

SECTION 59. IC 3-11-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A **vendor may apply for approval of a** proposed improvement or change to an electronic voting system ~~shall be reported to the election division by:~~

~~(1) the vendor; if a vendor is involved in the proposed change; and~~

~~(2) the county election board; if a county is proposing the change;~~
that is currently certified by the commission. A proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the **application for the** improvement or change is approved by the commission.

~~(b) A report of~~ **An application for approval of an** improvement or a change must be in the form prescribed by the commission.

(c) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under 42 U.S.C. 15371. The vendor shall pay any testing expenses incurred under this subsection.

~~(c) (d)~~ **(d)** The election division (or a ~~competent~~ **the** person designated by the commission to act on behalf of the election division **under IC 3-11-16**) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article. **The review must indicate:**

(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under 42 U.S.C. 15371; and

(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.

~~(d) (e)~~ **(e)** After the commission has examined and approved **the application for** an improvement or change to an electronic voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

(f) An approval of an application under this section expires on the date specified by section 28(a) of this chapter.

SECTION 60. IC 3-11-7.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The commission may not approve **the marketing, sale, lease, installation, or implementation of** an electronic voting system unless the system meets the specifications in sections 8 through 19 of this chapter and in IC 3-11-15.

SECTION 61. IC 3-11-7.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. A county executive may ~~adopt and~~ purchase, or procure, **lease, install, implement, or authorize the use of** an electronic voting system only after the system has been approved by the commission.

SECTION 62. IC 3-11-7.5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The election division (or ~~a competent~~ **the** person designated ~~by the commission to act on behalf of the election division under IC 3-11-16)~~ may periodically examine an electronic voting system that the commission has previously approved to determine ~~if whether~~ that system is still in compliance with all statutory requirements **and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.**

(b) If the ~~election division or competent~~ person finds that a system ~~examined under~~ **does not comply with** subsection (a), ~~fails to meet all requirements and standards; and the commission concurs in these findings; the commission may by unanimous vote of all of the members of the commission;~~ rescind the commission's approval of the voting system.

(c) If the commission's approval is rescinded under subsection (b), the commission may ~~by unanimous vote of all of the members of the commission;~~

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being **installed, implemented,** leased, marketed, **used, permitted to be used,** or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997; that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article; the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed; or sold for use in Indiana in an election conducted under this title.

SECTION 63. IC 3-11-7.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) The ~~commission may require a county executive to~~ **shall** file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The ~~election division may advise or instruct county officials on the content of the documents listed in subsection (a)~~ **must be filed not later than thirty (30) days after the date of approval of the contract,**

1 **lease, or purchase order by the county executive.**

2 SECTION 64. IC 3-11-7.5-28 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) Except as
4 provided in subsection (g), the approval of an electronic voting system
5 under this chapter expires ~~five (5) years after the date the commission~~
6 ~~approves the system.~~ **October 1 of the year following the year in**
7 **which presidential electors are elected under IC 3-10-2-3.**

8 (b) The vendor of a voting system approved under this chapter may
9 request that the approval be renewed by filing an application with the
10 election division.

11 (c) The application described in subsection (b) must identify all
12 counties that are currently using the voting system. Before the
13 commission considers the application for renewal, the election division
14 shall give notice ~~by regular United States mail~~ of the application to the
15 circuit court clerk of each county listed in the application.

16 (d) When the commission considers the application, the election
17 division shall request comments regarding the renewal of the
18 application from any interested person. **Before acting on the**
19 **application for renewal, the commission must receive a report from**
20 **the person designated under IC 3-11-16 indicating that the**
21 **hardware, firmware, and software included in the application for**
22 **renewal of the voting system is identical to the version of the voting**
23 **system previously certified by the commission.**

24 ~~(e) The commission may, by unanimous consent of the commission's~~
25 ~~entire membership, order the voting system to be tested by an~~
26 ~~independent authority designated by the commission. The vendor shall~~
27 ~~pay any testing expenses under this subsection.~~

28 ~~(f)~~ **(e) After receiving the report under subsection (d) and**
29 **comments from interested persons,** the commission shall approve an
30 application for renewal under this section if the commission finds that
31 the voting system:

- 32 (1) complies with the standards prescribed under this chapter;
- 33 (2) has worked effectively where the system has been used; and
- 34 (3) has been adequately supported by the vendor of the system.

35 ~~(g)~~ **(f)** If the commission finds that a vendor has marketed, sold,
36 leased, installed, implemented, or permitted the use of a voting system
37 in Indiana that:

- 38 (1) has not been certified by the commission for use in Indiana; or
- 39 (2) includes hardware, firmware, or software in a version that has
40 not been approved for use in Indiana;

41 the commission may revoke the approval granted under this section and
42 prohibit the vendor from marketing, leasing, or selling any voting
43 system in Indiana for a specific period not to exceed five (5) years.

44 ~~(h)~~ **(g)** A vendor subject to ~~subsection (g)~~ **subsection (f)** may
45 continue to provide support during the period specified in ~~subsection~~
46 ~~(g)~~ **subsection (f)** to a county that has acquired a voting system from
47 the vendor after the vendor certifies that the voting system to be
48 supported by the vendor only includes hardware, firmware, and
49 software approved for use in Indiana.

50 SECTION 65. IC 3-11-8-7 IS AMENDED TO READ AS
51 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. In preparing the

polls for an election, the county executive shall:

(1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the ~~voting machines~~; ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) provide a **method or material for designating the boundaries of the** chute, **with such as** a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held.

SECTION 66. IC 3-11-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

(1) have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;

(2) have signed the poll list but who have not voted; or

(3) are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law.

(b) This subsection applies

~~(1) after December 31, 2003; and~~

~~(2)~~ if a court order (or other order) has been issued to extend the hours that the polls are open under section 8 of this chapter.

As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the ~~voter voters~~ in accordance with IC 3-11.7.

SECTION 67. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter who:

(1) is a voter with disabilities; or

(2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board stating that, to the best of the designated person's knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English;

1 and

2 (2) has requested the designated person to assist the voter in voting
3 under this section.

4 (c) The person designated may then accompany the voter into the
5 voting booth and assist the voter in marking the voter's paper ballot or
6 ballot card or in registering the voter's vote on the ~~voting machine or~~
7 electronic voting system.

8 SECTION 68. IC 3-11-9-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The following
10 individuals shall assist a voter described by section 2 of this chapter
11 who requests assistance in voting before entering the voting booth but
12 does not wish to designate a person under that section.

13 (1) The two (2) judges if the voter is voting at a precinct.

14 (2) Two (2) members of the absentee voter board if the voter is
15 voting absentee.

16 (b) This subsection does not apply to a person designated by a voter
17 described by subsection (a) who is voting absentee before two (2)
18 members of the absentee voter board. The individuals described in
19 subsection (a) shall execute a sworn affidavit on a form provided by the
20 precinct election board stating that, to the best of the individuals'
21 knowledge, the voter:

22 (1) is a voter with disabilities or is unable to read or write English;

23 (2) has requested assistance in voting; and

24 (3) does not wish to designate a person to assist the voter in voting
25 under section 2 of this chapter.

26 (c) The two (2) individuals described in subsection (a) shall then
27 accompany the voter into the voting booth to assist the voter in marking
28 the voter's paper ballot or ballot card or in registering the voter's vote
29 on the ~~voting machine or~~ electronic voting system.

30 SECTION 69. IC 3-11-10-4.5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. ~~(a) This section~~
32 ~~applies after December 31, 2003.~~

33 ~~(b)~~ (a) Upon receipt of an absentee ballot from a voter required to
34 provide additional information to the county voter registration office
35 under IC 3-7-33-4.5, the county election board shall contact the county
36 voter registration office to determine if the additional information has
37 been filed with the office by the voter.

38 ~~(c)~~ (b) If the voter has filed the information with the county voter
39 registration office, the county election board shall add a notation to the
40 application indicating that the required information has been filed and
41 that the absentee ballot may be counted if the ballot otherwise complies
42 with this article.

43 ~~(d)~~ (c) If the voter has not filed the information with the county voter
44 registration office, the county election board shall add a notation on the
45 application filed by a voter described under ~~subsection (c)~~ **subsection**
46 **(b)** and on the envelope provided under this chapter reading
47 substantially as follows:

48 "INSPECTOR: AS OF (insert date absentee ballot application
49 approved) THIS VOTER WAS REQUIRED TO FILE
50 ADDITIONAL DOCUMENTATION WITH THE COUNTY
51 VOTER REGISTRATION OFFICE BEFORE THIS BALLOT

MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW."

SECTION 70. IC 3-11-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 p.m.

(b) ~~This subsection applies after December 31, 2003:~~ Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing documentation submitted by a voter to comply with IC 3-7-33-4.5. The office shall immediately notify the county election board regarding the filing of this documentation to permit the board to provide certification of this filing to the appropriate precinct election boards before 6 p.m.

SECTION 71. IC 3-11-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. The judges shall mark the poll list to indicate that the voter has voted by absentee ballot. If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

~~(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.~~

SECTION 72. IC 3-11-10-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.5. ~~(a) This section applies after December 31, 2003:~~

~~(b)~~ If the inspector finds under section 16(a) of this chapter that the

voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

SECTION 73. IC 3-11-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed in accordance with ~~section 4.5(d)~~ **section 4.5(c)** of this chapter.

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

- (1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and
- (2) stating the address and hours of the county voter registration office.

SECTION 74. IC 3-11-10-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) ~~After December 31, 2003~~; This section does not apply to an absentee ballot required to be treated as a provisional ballot under IC 3-11.7.

(b) If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

SECTION 75. IC 3-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated**;
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

- (1) securely lock the box;
- (2) give one (1) key to the judge of the opposite political party; and
- (3) retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is

ready to immediately proceed with the counting, except as otherwise provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret.

SECTION 76. IC 3-11-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before an election at which a ballot card voting system is used, a county election board shall:

(1) have the marking devices prepared for the election;

(2) have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and

(3) provide the precinct election officers with marking devices, a demonstration marking device, ~~(except in precincts using optical scan ballots);~~ ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) Each county election board shall have each ballot card voting system, along with all necessary furniture and appliances that go with the system at the polls, delivered to the appropriate precinct not later than 6 p.m. of the day before election day. The county executive shall provide transportation for the systems if requested to do so by the county election board.

SECTION 77. IC 3-11-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark ~~or punch~~ on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot.

SECTION 78. IC 3-11-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~(a) This subsection does not apply to an optical scan voting system and expires January 1, 2006. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:~~

~~(1) The name of the political subdivision holding the election;~~

~~(2) The designation of the election;~~

~~(3) The date of the election;~~

~~(4) The instructions to the voters;~~

~~(5) In a primary election, the name of the political party;~~

~~(b)~~ (a) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

~~(c)~~ (b) The ballot cards provided under ~~subsection (b)~~ subsection (a)

1 must be:

- 2 (1) designed to be folded; or
 3 (2) accompanied by a secrecy envelope;

4 to ensure the secrecy of each of the votes cast by a voter.

5 ~~(d)~~ (c) This subsection is enacted to comply with 42 U.S.C. 15481 by
 6 establishing uniform and nondiscriminatory standards to define what
 7 constitutes a vote on an optical scan voting system. Except as provided
 8 in subsection ~~(c)~~; (d), a write-in vote shall be cast by printing the name
 9 of the candidate and the title of the office in the space provided for
 10 write-in votes on a ballot card or secrecy envelope.

11 ~~(e)~~ (d) Space for write-in voting for an office is not required if there
 12 are no declared write-in candidates for that office. However, procedures
 13 must be implemented to permit write-in voting for candidates for
 14 federal offices.

15 SECTION 79. IC 3-11-13-24 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. The test required
 17 by section 22 of this chapter must:

18 ~~(1) include the visual inspection of the voting devices for the~~
 19 ~~correct alignment of the card stock and the templates for proper~~
 20 ~~punching;~~

21 ~~(2)~~ (1) be conducted by processing a preaudited group of ballot
 22 cards ~~punched or~~ marked so as to record a predetermined number
 23 of valid votes for each candidate and on each public question; and

24 ~~(3)~~ (2) include for each office one (1) or more ballot cards that have
 25 votes in excess of the number allowed by law in order to test the
 26 ability of the automatic tabulating machines to reject the votes.

27 SECTION 80. IC 3-11-13-26 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. After completion
 29 of the count, the tabulating machines shall be sealed ~~in the same manner~~
 30 ~~as voting machines under IC 3-12-2.5-6; as provided in IC 3-12-3-10.~~
 31 The ballot cards and all other election materials shall be sealed,
 32 retained, and disposed of as provided for paper ballots.

33 SECTION 81. IC 3-11-13-27 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the
 35 delivery of a ballot card voting system to a precinct, the precinct
 36 election board may meet at the polls on the same day and open the
 37 package containing the sample ballot cards, to determine whether the
 38 system is ready for use in accordance with section 16 of this chapter. If
 39 a ballot card voting system is not in compliance with that section, the
 40 board shall immediately label, set and adjust, and place the system in
 41 order or have it done.

42 (b) While acting under subsection (a), the precinct election board may
 43 restrict access to parts of the room where marking devices and other
 44 election material are being handled to safeguard this material.

45 (c) On the morning of election day, the precinct election officers shall
 46 meet at the polls at least one (1) hour before the time for opening the
 47 polls. The inspector then shall have:

- 48 (1) the **boundaries of the chute erected; designated;**
 49 (2) the sample ballots and instruction cards posted; and
 50 (3) everything put in readiness for the commencement of voting at
 51 the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall do the following:

(1) Compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement.

(2) Determine that the system records that zero (0) votes have been cast for each candidate and on each public question.

(3) Assure that the system is otherwise in perfect order.

(e) The officers then shall certify that:

(1) the marking device and the sample ballots are in agreement;

(2) the system records zero (0) votes cast; and

(3) the system appears to be in perfect order.

Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 82. IC 3-11-13-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

~~(b) This subsection does not apply to an optical scan voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.~~

~~(c)~~ **(b)** As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

~~(d)~~ **(c)** This subsection applies after December 31, 2005, to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 83. IC 3-11-13-28.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. A write-in vote cast on a secrecy envelope or fold-over envelope:

(1) is not valid unless:

(A) the secrecy envelope is initialed by both poll clerks; and

- 1 (B) the vote includes both the name of the write-in candidate and
 2 the office for which the write-in vote is cast; and
 3 (2) makes the secrecy envelope or fold-over envelope a ballot for
 4 purposes of this title.

5 SECTION 84. IC 3-11-13-29 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) In addition to
 7 the instructions printed on the ballot card or ballot labels, instructions
 8 to voters shall be posted in each voting booth or placed on the marking
 9 device. Each voter shall be instructed by both judges, on request, on
 10 how to operate the voting device before the voter enters the voting
 11 booth.

12 (b) The instructions posted in the voting booth or placed on the
 13 marking device must state the following:

14 (1) That the voter should examine the ballot card to determine if it
 15 contains the initials of the poll clerks in ink on the back of the card.

16 (2) That the voter should not make an unnecessary mark ~~or punch~~
 17 on the ballot card because the mark ~~or punch~~ may void the card.

18 (3) That the voter should examine the ballot card to determine if the
 19 card has any mark (other than the initials of the poll clerks) before
 20 voting.

21 (4) That the voter should return the ballot card to the poll clerks
 22 and request another ballot card if:

23 (A) the poll clerks' initials have not been properly placed on the
 24 card;

25 (B) the card has a mark (other than the initials of the poll clerks)
 26 before the voter places a voting mark on the ballot; or

27 (C) the voter has improperly marked ~~or punched~~ the card.

28 (5) That the voter should examine the ballot card after voting to
 29 determine that all marks ~~or punches~~ made on the card to indicate
 30 the voter's selections have been completely marked. ~~or punched~~.

31 (c) This subsection applies after December 31, 2005. As provided by
 32 42 U.S.C. 15481, a voter casting an optical scan ballot card under this
 33 section must be:

34 (1) permitted to verify in a private and an independent manner the
 35 votes selected by the voter before the ballot is cast and counted;

36 (2) provided the opportunity to change the ballot or correct any
 37 error in a private and independent manner before the ballot is cast
 38 and counted, including the opportunity to receive a replacement
 39 ballot if the voter is otherwise unable to change or correct the
 40 ballot; and

41 (3) notified before the ballot is cast regarding the effect of casting
 42 multiple votes for the office and provided an opportunity to correct
 43 the ballot before the ballot is cast and counted.

44 SECTION 85. IC 3-11-13-30 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. When a voter is
 46 handed a ballot card, the voter shall be instructed to:

47 (1) use only the marking device provided for ~~punching, slotting, or~~
 48 marking the cards and that the voter is not to mark a card in any
 49 other way;

50 (2) be certain that the initials of the poll clerks appear on the voter's
 51 card and that if the initials are not on the card it will not be

counted, except as provided by IC 3-12-1-12; and
 (3) place the voter's card in an envelope after the voter has voted or
 to fold the card in a manner so that no card is exposed upon which
 a choice is indicated.

SECTION 86. IC 3-11-13-31.7, AS AMENDED BY SEA 14-2005,
 SECTION 20, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2005]: Sec. 31.7. (a) This section is enacted to
 comply with 42 U.S.C. 15481 by establishing uniform and
 nondiscriminatory standards to define what constitutes a vote on an
 optical scan voting system.

(b) After receiving ballot cards, a voter shall, without leaving the
 room, go alone into one (1) of the booths or compartments that is
 unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by ~~punching~~
~~a hole in or~~ marking the connectable arrows, circles, ovals, or
 squares immediately beside:

(A) the candidates' names; or

(B) the numbers referring to the candidates; and

(2) the voter's preference on each public question by ~~punching a~~
~~hole in or~~ marking the connectable arrow, oval, or square beside:

(A) the word "yes" or "no" under the question; or

(B) the number referring to the word "yes" or "no" on the ballot.

(c) If an election is a general or municipal election and a voter desires
 to vote for all the candidates of one (1) political party or independent
 ticket (described in IC 3-11-2-6), the voter may ~~punch a hole in or~~
 mark:

(1) the circle enclosing the device; or

(2) the connectable arrow, circle, oval, or square described in
 section 11 of this chapter;

that designates the candidates of that political party or independent
 ticket (described in IC 3-11-2-6). The voter's vote shall then be counted
 for all the candidates of that political party or included in the
 independent ticket (described in IC 3-11-2-6). However, if the voter
~~punches a hole in or~~ marks the circle, arrow, oval, or square of an
 independent ticket (described in IC 3-11-2-6), the vote shall not be
 counted for any other independent candidate on the ballot.

SECTION 87. IC 3-11-13-33 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a voter
 has marked a ballot card, the voter shall place it inside the envelope
 provided for this purpose or fold the envelope described in section
~~18(c)(1)~~ **18(b)(1)** of this chapter and return the ballot card to the judge.

~~(b) This subsection does not apply to an optical scan ballot or to a~~
~~ballot card with a fold-over envelope. The judge shall remove the~~
~~second stub, as described in section 18 of this chapter, from the~~
~~envelope and offer the second stub to the voter.~~

~~(c)~~ **(b)** The judge shall offer to return the envelope with the ballot
 card inside to the voter. The voter shall:

(1) accept the envelope and deposit it in the ballot box; or

(2) decline the envelope and require the judge to deposit it in the
 ballot box.

~~(d)~~ **(c)** If a voter offers to vote a ballot card that is not inside the

envelope provided for this purpose or with the envelope not folded if the ballot is described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose or fold the envelope.

~~(c)~~ **(d)** After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on the poll list.

~~(f)~~ **(e)** After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

SECTION 88. IC 3-11-13-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. ~~(a)~~ If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

~~(b)~~ This subsection does not apply to an optical scan ballot. A voter returning a ballot must comply with subsection (a) by folding the stub on the ballot card.

~~(c)~~ After complying with subsection (b), the voter then may receive another ballot card. Upon receipt of a defective ballot card, the precinct election board shall:

~~(1)~~ immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and

~~(2)~~ without detaching any stub attached to the card, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.

SECTION 89. IC 3-11-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Before an electronic voting system is delivered to a precinct, the county election board shall have the system put in order, set and adjusted, and ready for use in voting. **As part of the system's preparation, the county election board may conduct any of the comparisons and determinations required under section 17 of the chapter. However, notwithstanding any action taken by the county election board, each precinct election board must also perform the comparisons and determinations required under section 17 of this chapter before the opening of the polls.** The board may employ one (1) or more competent persons to prepare systems in accordance with this section.

(b) While acting under subsection (a), the county election board may restrict access to parts of the room where voting systems and other election material are being handled to safeguard this material.

SECTION 90. IC 3-11-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

(1) the **boundaries of the chute erected designated;**

(2) the sample ballots and instruction cards posted; and

(3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 91. IC 3-11-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 14.5. Public Tests of Electronic Voting Systems

Sec. 1. At least fourteen (14) days before election day, the county election board of each county planning to use an electronic voting system at the next election shall randomly select at least three (3) precincts within the county and test the voting system units to be used at those precincts on election day. Each voting system shall be tested to ascertain that the system will correctly count the votes cast for all candidates and on all public questions in that precinct.

Sec. 2. Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

Sec. 3. The two (2) appointed members of the county election board shall observe the test required by this chapter and, if they so determine, shall certify the test as meeting the requirements of this chapter.

Sec. 4. The test must be open to representatives of political parties, candidates, the media, and the public.

Sec. 5. The test required by this chapter must include the following:

(1) The visual inspection of the voting system and ballot labels.

(2) The manual entry of a preaudited group of ballots marked so as to record a predetermined number of valid votes for each candidate and on each public question.

(3) At least one (1) ballot for each office that has votes in excess of the number allowed by law in order to test the ability of the electronic voting system to reject the overvotes.

Sec. 6. If an error is detected during the test required by section 5 of this chapter, the cause of the error shall be determined and corrected, and an errorless count must be made before the use of the electronic voting system at the election is approved.

Sec. 7. After completion of the count, the voting system shall be sealed. The ballots used to conduct the test and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.

Sec. 8. Immediately following the completion of the voting system test under section 5 of this chapter, the county election board shall enter the vote totals from the voting systems tested under this chapter into the component of the voting system used by the county election board to tabulate election results under IC 3-12-3.5. The board shall determine whether this component of the voting system properly tabulates the votes cast in each of the precincts tested under this chapter.

Sec. 9. Not later than seven (7) days after conducting the tests required under this chapter, the county election board shall certify to the election division that the tests have been conducted in conformity with this chapter.

Sec. 10. A copy of the certification of the tests conducted under this chapter shall be filed with the election returns.

SECTION 92. IC 3-11-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The performance and test standards and fees under this chapter apply to **an optical scan voting system or an electronic voting system procured after March 25, 1992, described in IC 3-11-7 or IC 3-11-7.5.**

SECTION 93. IC 3-11-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The commission shall not approve any system until the fee and the expenses incurred by the election division (or ~~a competent~~ **the person designated by the commission to act on behalf of the election division under IC 3-11-16**) in making the examination are paid by the person making the application.

SECTION 94. IC 3-11-15-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.3. (a) This section applies after December 31, 2005.

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

(c) ~~The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).~~

(c) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system:

(1) was:

(A) approved by the commission for use in elections in Indiana before July 1, 2003; and

(B) purchased by the county before July 1, 2003; and

(2) otherwise complies with the applicable provisions of HAVA and this article.

However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(e) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (d) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(f) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (e), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.

SECTION 95. IC 3-11-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 16. Voting System Technical Oversight Program

Sec. 1. As used in this chapter, "program" refers to the voting system technical oversight program established by section 2 of this chapter.

Sec. 2. The voting system technical oversight program is established.

Sec. 3. The secretary of state shall contract with a person or an entity to conduct the program for a term specified in the contract.

Sec. 4. The person or entity designated under this chapter to conduct the program shall do the following:

(1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems used to conduct elections in Indiana.

(2) Compile and maintain an inventory of all voting systems used to conduct elections in Indiana.

(3) Review reports concerning voting systems prepared by independent laboratories and submitted by applicants for voting system certification.

(4) Recommend to the commission whether an application for voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.

(5) Perform any additional testing of a voting system necessary to determine whether the voting system complies with state law.

(6) Each year perform random audits of voting systems used to conduct Indiana elections and prepare reports indicating whether the voting systems have been certified, programmed, and used in compliance with Indiana law.

(7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.

(8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems.

(9) Perform any other duties related to the approval or use of voting systems as provided in:

(A) state law; or

(B) the contract described in section 3 of this chapter.

SECTION 96. IC 3-11-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 17. Voting System Violations

Sec. 1. This chapter applies to a voting system vendor who sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana.

Sec. 2. In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently sells, leases, installs,

1 implements, or permits the use of a voting system in an election
 2 conducted in Indiana in violation of this title is subject to a civil
 3 penalty under this chapter.

4 **Sec. 3. If the secretary of state determines that a vendor is subject**
 5 **to a civil penalty under section 2 of this chapter, the secretary of**
 6 **state may assess a civil penalty. The civil penalty assessed under**
 7 **this section may not exceed three hundred thousand dollars**
 8 **(\$300,000), plus any investigative costs incurred and documented**
 9 **by the secretary of state.**

10 **Sec. 4. The secretary of state is subject to IC 4-21.5 in imposing**
 11 **a civil penalty under this chapter.**

12 **Sec. 5. All civil penalties collected under this chapter shall be**
 13 **deposited with the treasurer of state in the voting system technical**
 14 **oversight program account established by section 6 of this chapter.**

15 **Sec. 6. (a) The voting system technical oversight program account**
 16 **is established with the state general fund to provide money for**
 17 **administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15,**
 18 **IC 11 3-11-16, and this chapter.**

19 **(b) The election division shall administer the account. With the**
 20 **approval of the budget agency, funds in the account are available**
 21 **to augment and supplement the funds appropriated to the election**
 22 **division for the purposes described in this section.**

23 **(c) The expenses of administering the account shall be paid from**
 24 **the money in the account. The account consists of all civil penalties**
 25 **collected under this chapter.**

26 **SECTION 97. IC 3-11.5-4-12 IS AMENDED TO READ AS**
 27 **FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) If the absentee**
 28 **ballot counters find under section 11 of this chapter that:**

- 29 (1) the affidavit is properly executed;
- 30 (2) the signatures correspond;
- 31 (3) the absentee voter is a qualified voter of the precinct;
- 32 (4) the absentee voter is registered and ~~after December 31, 2003,~~
- 33 is not required to file additional information with the county voter
- 34 registration office under IC 3-7-33-4.5;
- 35 (5) the absentee voter has not voted in person at the election; and
- 36 (6) in case of a primary election, if the absentee voter has not
- 37 previously voted, the absentee voter has executed the proper
- 38 declaration relative to age and qualifications and the political party
- 39 with which the absentee voter intends to affiliate;

40 the absentee ballot counters shall open the envelope containing the
 41 absentee ballots so as not to deface or destroy the affidavit and take out
 42 each ballot enclosed without unfolding or permitting a ballot to be
 43 unfolded or examined.

44 ~~(b) This subsection applies after December 31, 2003:~~ If the absentee
 45 ballot counters find under subsection (a) that the voter has not filed the
 46 additional information required to be filed with the county voter
 47 registration office under IC 3-7-33-4.5, but that all of the other findings
 48 listed under subsection (a) apply, the absentee ballot shall be processed
 49 as a provisional ballot under IC 3-11.7.

50 **(c) The absentee ballot counters shall then deposit the ballots in a**
 51 **secure envelope with the name of the precinct set forth on the outside**

of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 98. IC 3-11.5-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) In addition to the preparations described in IC 3-11-11-2, ~~IC 3-11-12-24~~, IC 3-11-13-27, or IC 3-11-14-16, the inspector shall:

(1) mark the poll list; and

(2) attach the certificates of voters who have registered and voted under IC 3-7-36-14 to the poll list;

in the presence of the poll clerks to indicate the voters of the precinct whose absentee ballots have been received by the county election board according to the certificate supplied under section 1 of this chapter.

(b) The poll clerks shall sign the statement printed on the certificate supplied under section 1 of this chapter indicating that the inspector:

(1) marked the poll list; and

(2) attached the certificates described in subsection (a)(2);
under this section in the presence of both poll clerks.

(c) The inspector shall retain custody of the certificate supplied under section 1 of this chapter until the certificate is returned under section 9 of this chapter.

SECTION 99. IC 3-11.7-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) This section applies to a provisional ballot that:**

(1) has been marked and cast by a voter in compliance with this title; but

(2) may not otherwise be counted solely as the result of the act or failure to act of an election officer.

(b) A provisional ballot described in subsection (a) shall nevertheless be counted unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is demonstrated. The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

(c) Notwithstanding subsection (b), if the county election board, by a majority vote of its members, determines that there is a reason not to count a provisional ballot, the provisional ballot may not be counted.

SECTION 100. IC 3-12-1-9.5, AS AMENDED BY SEA 14-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section applies to counting votes cast on ballot cards.

~~(b) A chad that has been pierced, but not entirely punched out of the card, shall be counted as a vote for the indicated candidate or for the indicated response to a public question.~~

~~(c) A chad that has been indented, but not in any way separated from the remainder of the card, may not be counted as a vote for a candidate~~

or on a public question:

(d) Whenever:

(1) a ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a public question;

(2) the indicated chad has not been punched out; and

(3) a hole has been made in the card that touches any part of the numbered box;

the hole shall be counted as a vote for the candidate or on the public question as if the indicated chad had been punched out. However, if a hole has been made in the ballot that does not touch a numbered box or punch out a chad, the hole may not be counted as a vote for a candidate or on a public question:

(e) Whenever:

(1) a chad has been punched out of a ballot card;

(2) a numbered box indicates that another chad may be punched out to cast a vote for:

(A) a different candidate for the same office as the candidate for whom a vote was cast under subdivision (1); or

(B) a different response to the same public question on which a vote was cast under subdivision (1); and

(3) a hole has been punched in the card that touches the numbered box described in subdivision (2);

neither the chad described in subdivision (1) nor the hole described in subdivision (3) may be counted as a vote for a candidate or on a public question:

(f) (b) This subsection applies to a ballot card that:

(1) has been cast in a precinct whose votes are being recounted by a local recount commission or the state recount commission;

(2) is damaged or defective so that it cannot properly be counted by automated tabulating machines; and

(3) cannot be counted for the office subject to the recount due to the damage or defect.

The ballot card shall be remade only if the conditions in subdivisions (1) through (3) exist.

(g) Subsections (b) through (e) expire December 31, 2005:

SECTION 101. IC 3-12-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum.

(b) If:

(1) an absentee ballot has been cast in the precinct; and

(2) the precinct used voting machines;

the certificates and memoranda prepared under this section must comply with IC 3-11-10-16(c):

SECTION 102. IC 3-12-3.5-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. After each electronic voting system has been secured and the paper vote total printouts obtained, the inspector shall announce in a distinct tone of voice ~~the result of the vote as shown by that~~ the printouts **are available for inspection by the members of the precinct election board and any watchers present within the polls. The members and watchers are entitled to inspect and copy the printouts to document the votes cast for:**

(1) each candidate ~~in the order as their offices are arranged~~ on each system; and

(2) each public question **on each system.**

SECTION 103. IC 3-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Not later than noon **on the second** Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

SECTION 104. IC 3-12-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A county election board may not reject the certificates, poll lists, or tally papers returned from a precinct election board:

(1) for lack of form or for not being strictly in accordance with the directions contained in this title if the certificates can be satisfactorily understood; or

(2) if the returns are certified by the precinct election board as required by IC 3-12-2-6, ~~IC 3-12-2-5-6,~~ IC 3-12-3-2, and IC 3-12-3.5-6 and returned by the inspector or one (1) of the judges of the board.

SECTION 105. IC 3-12-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. If ~~voting machines or~~ electronic voting systems are used in a precinct, the county election board may request authorization from the state recount commission to inspect the registering counter or other ~~mechanical~~ recording device on any ~~voting machine or~~ electronic voting system showing the number of votes cast for any candidate or public question. If authorized by the state recount commission, the board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

SECTION 106. IC 3-12-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. To inspect ~~a voting machine or an~~ electronic voting system under section 18 of this chapter, the county election board may proceed to any place in the county where the ~~machine or~~ system is located, kept, or stored. However, the board shall make the inspection in the presence of an accredited representative of each of the major political parties of the county.

SECTION 107. IC 3-12-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. When making an inspection under section 18 of this chapter, a county election board shall compare the number of votes registered on the counter or other ~~mechanical~~ recording device on the ~~voting machines or~~ electronic voting systems with the returns made by the precinct election board of

the precinct in which the ~~voting machine~~ or electronic voting system was used.

SECTION 108. IC 3-12-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. If there is a discrepancy between the number of votes registered on a ~~voting machine~~ or an electronic voting system and the returns made by the precinct election board, the county election board shall correct the returns made by the precinct election board so that the returns conform to the vote registered on the ~~voting machine~~ or electronic voting system. The corrected returns shall be considered the true and correct returns of the number of votes cast for each candidate or on each public question in the precinct.

SECTION 109. IC 3-12-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If a nomination or election is contested or a recount is conducted, the returns of each precinct election board, as corrected by the county election board under section 21 of this chapter, constitute prima facie evidence of the vote cast for each candidate and on each public question to the same extent as the tabulation and return of the vote in a precinct where ~~voting machines~~ or electronic voting systems are not used.

SECTION 110. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a candidate is elected to a local office that is commissioned by the governor under IC 4-3-1-5, the circuit court clerk shall prepare a statement under the clerk's seal specifying the number of votes received by each candidate for that office.

(b) The statement prepared under subsection (a) must also include the number of votes cast for and against the following:

- (1) The ratification of a state constitutional amendment submitted to the electorate.
- (2) The retention of a justice of the supreme court or a judge of the court of appeals or tax court.
- (3) Each candidate who was declared elected by the county election board under IC 3-12-4-9.

(c) The clerk shall send or hand deliver the statement to the election division not later than noon on the **second** Monday following election day.

(d) The election division shall tabulate the votes received under this section. Not later than the ~~second~~ **third** Friday after the election, the secretary of state shall issue a certificate certifying the following:

- (1) Each state constitutional amendment ratified or rejected.
- (2) Each justice or judge retained or removed.

(e) The election division shall provide a copy of a certificate described by:

- (1) subsection (d)(1) to the chief justice of the Indiana supreme court and the director of the office of code revision of the legislative services agency; and
- (2) subsection (d)(2) to the chief justice of the state.

(f) The election division shall provide a copy of all statements received under this section to the office.

SECTION 111. IC 3-12-5-5 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than
 2 noon on the **second** Monday following an election for governor and
 3 lieutenant governor, each circuit court clerk shall prepare a certified
 4 statement under the clerk's seal showing the number of votes each
 5 candidate received. The clerk shall transmit the statement to the election
 6 division. The election division shall deliver:

- 7 (1) the statement to the speaker of the house of representatives
 8 before the date described in subsection (b); and
- 9 (2) a copy of each statement to the office.

10 (b) The house of representatives and the senate shall meet in joint
 11 convention not later than the date specified in Article 5, Section 9 of the
 12 Constitution of the State of Indiana for the commencement of the term
 13 of the governor and the lieutenant governor to hear the canvass of votes
 14 cast for governor and lieutenant governor.

15 (c) The joint convention shall act to resolve any:

- 16 (1) tie vote, as required under Article 5, Section 5 of the
 17 Constitution of the State of Indiana; or
- 18 (2) contest under Article 5, Section 6 of the Constitution of the
 19 State of Indiana.

20 (d) The joint rules that governed the house of representatives and
 21 senate before the general election govern the joint convention until
 22 those rules are amended as provided in those rules.

23 (e) After resolving any tie or contest, the presiding officer of the joint
 24 convention shall certify to the convention that the individuals receiving
 25 the most votes according to the canvass have been elected governor and
 26 lieutenant governor.

27 SECTION 112. IC 3-12-5-6 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than
 29 noon on the **second** Monday following an election, each circuit court
 30 clerk shall prepare a certified statement under the clerk's seal of the
 31 number of votes received by each candidate for:

- 32 (1) federal office;
- 33 (2) state office;
- 34 (3) legislative office; and
- 35 (4) a local office for which a declaration of candidacy must be filed
 36 with the election division under IC 3-8-2.

37 (b) The clerk shall send the statements by certified mail, return
 38 receipt requested, or hand deliver the statements to the election
 39 division.

40 (c) The election division shall provide a copy of each statement to the
 41 office.

42 SECTION 113. IC 3-12-5-11 IS AMENDED TO READ AS
 43 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) As soon as
 44 practical, but no later than noon on the **second** Monday following an
 45 election for a legislative office, each circuit court clerk shall:

- 46 (1) prepare a certified statement under the clerk's seal specifying
 47 the number of votes received in the county by each candidate for
 48 legislative office; and
- 49 (2) send the statement by certified mail, return receipt requested, or
 50 hand deliver the statement to the election division.

51 (b) The election division shall provide a copy of each statement to the

1 office.

2 SECTION 114. IC 3-12-6-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who
4 desires a recount of votes must file a verified petition no later than noon
5 ~~seven (7)~~ **fourteen (14)** days after election day.

6 (b) A county chairman who is entitled to and desires a recount of
7 votes must file a verified petition not later than noon ~~ten (10)~~ **seventeen**
8 **(17)** days after election day.

9 (c) The petition must be filed in the circuit or superior court of each
10 county in which is located a precinct in which the individual desires a
11 recount.

12 SECTION 115. IC 3-12-6-16 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A recount
14 commission consists of three (3) persons.

15 (b) Two (2) members of the commission must be voters who:

- 16 (1) are members of different major political parties of the state; and
- 17 (2) were qualified to vote at the election in a county in which the
18 election district for the office is located.

19 (c) This subsection applies to a recount commission conducting a
20 recount of an election in which only paper ballots were used. The third
21 member of the commission must be a person who:

- 22 (1) is a member of a major political party of the state; and
- 23 (2) was qualified to vote at the election in a county in which the
24 election district for the office is located.

25 (d) This subsection applies to a recount of an election in which a
26 voting method other than only paper ballots was used. The third
27 member of the commission must be a competent mechanic who is
28 familiar with the ~~voting machines~~, ballot card voting systems or
29 electronic voting systems used in that election. The mechanic is not
30 required to be qualified to vote at the election in a county in which the
31 election district for the office is located.

32 SECTION 116. IC 3-12-6-19 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) A court
34 ordering a recount under this chapter shall by order impound and
35 provide for the protection of the following:

- 36 (1) All ballots ~~voting machines~~, and electronic voting systems used
37 at the election for casting votes in the precincts.
- 38 (2) All tally sheets relating to the votes cast for nomination or
39 election to the office.
- 40 (3) All poll lists of persons registered by the poll clerks as having
41 voted for nomination or election to the office.

42 (b) An order issued by the state recount commission under
43 IC 3-12-10 supersedes an order issued by a court under this section to
44 the extent that the orders conflict. The state recount commission shall
45 assist a court acting under this section to the extent that the ability of
46 the state recount commission to preserve the integrity of election
47 records or equipment is not hindered.

48 (c) An impoundment order issued under subsection (a) may not
49 prevent a circuit court clerk or board of registration from copying
50 election material other than ballots if the clerk or board copies the
51 material under the supervision of a person designated by the court.

1 SECTION 117. IC 3-12-6-20 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A court acting
 3 under section 19 of this chapter shall make the ballots, ~~voting machines~~,
 4 electronic voting systems, tally sheets, and poll lists available to the
 5 recount commission appointed under this chapter.

6 SECTION 118. IC 3-12-8-2 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. An election may be
 8 contested under section 1 of this chapter if a petitioner alleges that one
 9 (1) of the following circumstances existed:

- 10 (1) The contestee was ineligible.
- 11 (2) A mistake occurred in the printing or distribution of ballots
- 12 used in the election that makes it impossible to determine which
- 13 candidate received the highest number of votes.
- 14 (3) A mistake occurred in the programming of ~~a voting machine~~ **or**
- 15 an electronic voting system, making it impossible to determine the
- 16 candidate who received the highest number of votes.
- 17 (4) ~~A voting machine~~ **or** An electronic voting system
- 18 malfunctioned, making it impossible to determine the candidate
- 19 who received the highest number of votes.
- 20 (5) A deliberate act or series of actions occurred making it
- 21 impossible to determine the candidate who received the highest
- 22 number of votes cast in the election.

23 SECTION 119. IC 3-12-8-5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A candidate who
 25 desires to contest an election or a nomination under this chapter must
 26 file a verified petition with the circuit court clerk of the county that
 27 contains the greatest percentage of the population of the election district
 28 no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

29 (b) A county chairman who is entitled to and desires to contest an
 30 election or a nomination under this chapter must file a verified petition
 31 with the circuit court clerk of the county that contains the greatest
 32 percentage of the population of the election district not later than noon
 33 ~~ten (10)~~ **seventeen (17)** days after election day.

34 (c) A petition for a contest of an election in different municipalities,
 35 whether in the same court of the county or not, may not be
 36 consolidated.

37 SECTION 120. IC 3-12-8-6 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A petition filed
 39 under section 5 of this chapter must state the following:

- 40 (1) That the petitioner desires to contest the nomination or election
- 41 to an office.
- 42 (2) The name of each candidate as set forth on the ballot for the
- 43 election and address of each candidate as set forth in the records of
- 44 the county election board or election division.
- 45 (3) That the petitioner in good faith believes that one (1) or more
- 46 of the following occurred:
- 47 (A) The person declared nominated or elected does not comply
- 48 with a specific constitutional or statutory requirement set forth in
- 49 the petition that is applicable to a candidate for the office.
- 50 (B) A mistake was made in the printing or distribution of ballots
- 51 used in the election that makes it impossible to determine which

- 1 candidate received the highest number of votes cast in the
 2 election.
- 3 (C) A mistake occurred in the programming of ~~a voting machine~~
 4 ~~or~~ an electronic voting system, making it impossible to determine
 5 the candidate who received the highest number of votes.
- 6 (D) ~~A voting machine or~~ An electronic voting system
 7 malfunctioned, making it impossible to determine the candidate
 8 who received the highest number of votes.
- 9 (E) A deliberate act or series of actions occurred making it
 10 impossible to determine the candidate who received the highest
 11 number of votes cast in the election.
- 12 (b) A petition stating that the petitioner believes that it is impossible
 13 to determine the candidate that received the highest number of votes for
 14 one (1) of the reasons described in subsection (a)(3)(B), (a)(3)(C), or
 15 (a)(3)(D) must identify each precinct in which:
- 16 (1) ballots:
- 17 (A) containing the printing mistake; or
 18 (B) distributed by mistake;
 19 were cast;
- 20 (2) a mistake occurred in the programming of ~~a voting machine or~~
 21 an electronic voting system; or
 22 (3) ~~a voting machine or~~ an electronic voting system malfunctioned.
- 23 (c) A petition stating that the petitioner believes that an act or series
 24 of actions described in subsection (a)(3)(E) occurred must identify each
 25 precinct or other location in which the act or series of actions occurred
 26 to the extent known to the petitioner.
- 27 SECTION 121. IC 3-12-8-17 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A contest shall
 29 be heard and determined by the court without a jury subject to the
 30 Indiana Rules of Trial Procedure.
- 31 (b) The court shall determine the issues raised by the petition and
 32 answer to the petition.
- 33 (c) After hearing and determining a petition alleging that a candidate
 34 is ineligible, the court shall declare as elected or nominated the
 35 qualified candidate who received the highest number of votes and
 36 render judgment accordingly.
- 37 (d) If the court finds that:
- 38 (1) a mistake in the printing or distribution of the ballots used in the
 39 election;
 40 (2) a mistake in the programming of ~~a voting machine or~~ an
 41 electronic voting system;
 42 (3) a malfunction of ~~a voting machine or~~ an electronic voting
 43 system; or
 44 (4) the occurrence of a deliberate act or series of actions;
 45 makes it impossible to determine which candidate received the highest
 46 number of votes, the court shall order that a special election be
 47 conducted under IC 3-10-8.
- 48 (e) The special election shall be conducted in the precincts identified
 49 in the petition in which the court determines that:
- 50 (1) ballots containing the printing mistake or distributed by mistake
 51 were cast;

- (2) a mistake occurred in the programming of a ~~voting machine~~ or an electronic voting system;
- (3) ~~a voting machine~~ or an electronic voting system malfunctioned;
- or
- (4) the deliberate act or series of actions occurred.

SECTION 122. IC 3-12-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires:

- (1) a recount of votes cast for a nomination or election subject to this chapter; or
 - (2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor;
- must file a verified petition with the election division not later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

SECTION 123. IC 3-12-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Each petition for a recount filed under section 2 of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts in which the petitioner desires a recount.
- (3) That the individual is entitled to a recount under this chapter and that the nomination or election to office at issue was voted upon in the precincts specified.
- (4) The name of the candidates as set forth on the ballot for the election and address of the candidates as set forth in the records of the election division.
- (5) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (6) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

(b) Each petition for a contest filed under section 2 of this chapter must state the following:

- (1) The nomination or election to office that the petitioner contests.
- (2) That the individual is entitled to contest an election or a nomination to office under this chapter.
- (3) The name of the candidates as set forth on the ballot for the election and address of each of the candidates as set forth in the records of the election division.
- (4) That the petitioner in good faith believes that one (1) or more of the following occurred:
 - (A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.
 - (B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.

(C) A mistake occurred in the programming of ~~a voting machine~~
~~or~~ an electronic voting system, making it impossible to determine
the candidate who received the highest number of votes.

(D) ~~A voting machine or~~ An electronic voting system
malfunctioned, making it impossible to determine the candidate
who received the highest number of votes.

(E) A deliberate act or series of actions occurred making it
impossible to determine the candidate who received the highest
number of votes cast in the election.

(c) A petition stating that the petitioner believes that a mistake
described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred
must identify each precinct in which:

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

(2) a mistake occurred in the programming of ~~a voting machine or~~
an electronic voting system; or

(3) ~~a voting machine or~~ an electronic voting system malfunctioned.

(d) A petition stating that the petitioner believes that an act or series
of actions described in subsection (b)(4)(E) occurred must identify each
precinct or other location in which the act or series of actions occurred
to the extent known to the petitioner.

SECTION 124. IC 3-12-11-9 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Upon the filing
of a petition for a recount or contest with the election division, the
secretary of state shall issue a notice of the filing and pendency of the
petition to each opposing candidate and deliver the notice to the state
police department.

**(b) This subsection applies if an attorney has filed an appearance
with the election division as the representative of a candidate. The
state police shall serve the notice on the attorney for the candidate.**

(c) If subsection (b) does not apply, the state police department shall
immediately serve the notice upon each opposing candidate in person
or by leaving a copy at the last and usual place of residence.

**(d) The state police department shall make immediate return of the
service under this section.**

SECTION 125. IC 3-12-11-11 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section
applies if a cross-petition is filed under this chapter.

(b) This subsection applies only to a recount of an election for
nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns,
the difference between the number of votes cast for the
cross-petitioner and the petitioner with the greatest number of votes
is not more than one percent (1%) **of the total votes cast for all
candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of
the election returns, the difference between the number of votes
cast for the cross-petitioner and the petitioner with the greatest
number of votes is not more than one percent (1%) **of the total**

votes cast for all candidates for the nomination or office.

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars (\$100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be deposited in the state recount fund.

SECTION 126. IC 3-12-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as provided in subsection (d) **or (e)**, the state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:

(1) the filing of a petition and cash deposit or bond under this chapter;

(2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and

(3) proof of service of all notices.

(b) Except as provided in subsection (d), whenever a petition filed under section 2 of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:

(1) the filing of a cash deposit or bond under this chapter; and

(2) proof of service of all notices.

(c) Except as provided in subsection (d), the state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:

(1) the filing of a petition under this chapter; and

(2) proof of service of all notices.

(d) Whenever a motion to dismiss a petition or cross-petition for a recount or a petition for a contest is filed with the state recount commission or is made by a member of the commission, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or a contest. The motion to dismiss must:

- (1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and
- (2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.

(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest.

SECTION 127. IC 3-12-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the **county election district for the office** requested in the petitions and cross-petitions.

SECTION 128. IC 3-12-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter **that is in the election district for the office.** The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter **if the precinct is within the election district for the office.**

SECTION 129. IC 3-12-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Except as provided in subsection (b), the state recount commission may by order impound and provide for the protection of ~~the following:~~

- ~~(1) All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts;~~
- ~~(2) All tally sheets relating to the votes cast for the office;~~
- ~~(3) All poll lists of persons registered by the poll clerks as having voted for the office;~~

any election records or equipment described by IC 3-12-10-5(a).

(b) In a recount of an election for a legislative office, the state recount commission shall by order impound and provide for the protection of the following:

- (1) All ballots, ~~voting machines,~~ and electronic voting systems used at the election for casting votes in all of the precincts within the legislative district.
- (2) All tally sheets relating to the votes cast for the office.
- (3) All poll lists of persons registered by the poll clerks as having voted for the office.

SECTION 130. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

(1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots used in the election;

(2) a mistake was made in the programming of a ~~voting machine~~ or an electronic voting system;

(3) a ~~voting machine~~ or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of a ~~voting machine~~ or an electronic voting system;

(3) a ~~voting machine~~ or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 131. IC 3-12-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A recount commission consists of three (3) persons.

(b) Two (2) members of the commission must be voters who:

(1) are members of different major political parties of the state; and

(2) were qualified to vote at the election in a county in which the election district that voted on the public question is located.

(c) This subsection applies to a recount commission conducting a recount of an election in which only paper ballots were used. The third member of the commission must be a person who:

(1) is a member of a major political party of the state; and

(2) was qualified to vote at the election in a county in which the election district that voted on the public question is located.

(d) This subsection applies to a recount of an election in which a voting method other than only paper ballots was used. The third member of the commission must be a competent mechanic who is familiar with the ~~voting machines~~, ballot card voting systems or

electronic voting systems used in that election. The mechanic is not required to be qualified to vote at the election in a county in which the

election district that voted on the public question is located.

SECTION 132. IC 3-12-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A court ordering a recount under this chapter shall by order impound and provide for the protection of the following:

(1) All ballots ~~voting machines~~, and electronic voting systems used at the election for casting votes in the precincts.

(2) All tally sheets relating to the votes cast on the public question.

(3) All poll lists of persons registered by the poll clerks as having voted on the public question.

(b) An order issued by the state recount commission under IC 3-12-10 supersedes an order issued by a court under this section to the extent that the orders conflict. The state recount commission shall assist a court acting under this section to the extent that the ability of the state recount commission to preserve the integrity of election records or equipment is not hindered.

(c) An impoundment order issued under subsection (a) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of a person designated by the court.

SECTION 133. IC 3-12-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A court acting under section 14 of this chapter shall make the ballots, ~~voting machines~~, electronic voting systems, tally sheets, and poll lists available to the recount commission appointed under this chapter.

SECTION 134. IC 3-14-2-18, AS AMENDED BY SEA 15-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who knowingly:

(1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted; ~~on~~ ~~a voting system~~; or

(2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes; ~~on a voting system~~;

commits a Class D felony.

SECTION 135. IC 3-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who knowingly:

(1) interferes with a watcher;

(2) prevents a watcher from performing the watcher's duties;

(3) otherwise violates:

(A) IC 3-6-8-3;

(B) IC 3-6-8-4;

(C) IC 3-6-8-5;

(D) IC 3-6-8-6;

(E) IC 3-6-9; or

(F) IC 3-6-10; or

(4) violates ~~IC 3-11-12-21(e)~~ or IC 3-11-13-44(d);

commits a Class D felony.

SECTION 136. IC 3-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A precinct election

officer who, with the intent to cause or permit a ~~voting machine~~, ballot card voting system or ~~an~~ electronic voting system to fail to correctly register all votes cast, tampers with or disarranges the ~~machine or~~ system or any part of it commits a Class D felony.

SECTION 137. IC 3-14-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. A precinct election officer who permits a ~~voting machine~~, ballot card voting system or ~~an~~ electronic voting system to be used for voting at an election, with knowledge of the fact that the ~~machine or~~ system is not in order or not perfectly set and adjusted so that it will correctly register all votes cast, commits a Class D felony.

SECTION 138. IC 3-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person other than a precinct election officer who knowingly, before or during an election:

(1) damages, disarranges, or tampers with a ~~voting machine~~, ballot card system or ~~an~~ electronic voting system; or

(2) damages a ballot label placed or to be placed on the ~~machine~~, electronic voting system, or any other appliance used in connection with the ~~machine~~, ballot card voting system or electronic voting system;

commits a Class D felony.

SECTION 139. IC 3-14-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A member of a precinct election board, an absentee ballot counter appointed under IC 3-11.5-4-22, or a provisional ballot counter appointed under IC 3-11.7-3 who knowingly:

(1) opens or marks, by folding or otherwise, a ballot presented by a voter, except as provided by law; or

(2) tries to find out how the voter voted before the ballot is deposited in the ballot box or cast on a ~~voting machine~~, ballot card voting system or ~~an~~ electronic voting system or counted by the absentee ballot counter;

commits a Class D felony.

SECTION 140. IC 3-14-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A person who knowingly violates:

(1) IC 3-11.5-5;

(2) IC 3-11.5-6;

(3) IC 3-12-2-1;

~~(4) IC 3-12-2.5-9;~~

~~(5)~~ (4) IC 3-12-3-14; or

~~(6)~~ (5) IC 3-12-3.5-7;

by providing any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots counted under IC 3-11.5-5, IC 3-11.5-6, or IC 3-12 before the closing of the polls commits a Class D felony.

SECTION 141. IC 5-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Members of the general assembly shall take ~~such the~~ oath described by section 1 of **this chapter** before taking their seats. ~~which~~ **The oath** shall be entered

on the journals. ~~and~~

(b) The governor and lieutenant-governor shall each take ~~such the~~ oath in ~~presence of both houses of the general assembly in convention;~~ ~~and described by section 1 of this chapter.~~ The ~~same~~ oath shall be entered on the journals ~~thereof:~~ **of each chamber of the general assembly.**

SECTION 142. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) On the day before each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

(c) The commission shall:

(1) designate another day as compensatory time off; or

(2) authorize overtime pay;

for license branch personnel required to work on an election day.

SECTION 143. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**

SECTION 144. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-5-2-21.5; IC 3-11-15-10; IC 3-11-15-11; IC 3-11-15-50; IC 3-11-15-51; IC 3-11-15-52; IC 3-11-15-53; IC 3-11-15-55; IC 3-11-15-56; IC 3-11-15-57; IC 3-11-15-58.

SECTION 145. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 3-5-2-41.5; IC 3-5-2-41.6; IC 3-5-2-50.6; IC 3-6-4.5-1; IC 3-11-3-2; IC 3-11-3-6; IC 3-11-5; IC 3-11-7.5-20; IC 3-11-12; IC 3-11-13-20; IC 3-12-2.5.

SECTION 146. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply to this SECTION.**

(b) To perform the duties set forth in IC 3-11-16, as added by this act, in establishing the voting system technical oversight program, the secretary of state shall issue a request for proposals to enter into the contract required under IC 3-11-16-3, as added by this act.

(c) Notwithstanding any other statute or rule:

(1) the secretary of state shall extend invitations to public and private colleges and universities located within Indiana to respond to the request for proposals not later than June 1,

2005; and

(2) the secretary of state and the person selected by the secretary of state shall enter into the contract required under IC 3-11-16-3, as added by this act, not later than July 1, 2005.

(d) The election commission may approve an application for the certification of a voting system if the commission determines that:

(1) the application for the voting system otherwise complies with IC 3; and

(2) either:

(A) the contract required to conduct the voting system technical oversight program required by IC 3-11-16, as added by this act, has not yet been entered into; or

(B) a testing authority has not yet been accredited by the federal government under 42 U.S.C. 15371, but the testing authority whose report concerning the voting system has been submitted to the commission is described in the Voting Systems Standards issued by the Federal Election Commission on April 30, 2002.

(e) This SECTION expires December 31, 2005.

SECTION 147. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) This SECTION applies to a county:

(1) that used a punch card ballot voting system to conduct the November 2, 2004, general election in any precinct in the county; and

(2) whose county executive, before July 1, 2005, has not entered into a contract that complies with this SECTION.

(c) To comply with this SECTION, a contract that a county executive enters into must require a voting system vendor to deliver, not later than December 31, 2005:

(1) an electronic voting system;

(2) an optical scan ballot voting system; or

(3) a combination of both systems;

certified for installation, marketing, and use in Indiana on the effective date of the contract.

(d) If a county described in subsection (b) fails to enter into a contract that complies with subsection (c) before July 1, 2005, the secretary of state may enter into a quantity purchase agreement with a voting system vendor for the purchase of:

(1) an electronic voting system;

(2) an optical scan ballot voting system; or

(3) a combination of both systems;

that is certified for installation, marketing, and use in Indiana on the effective date of the contract.

(e) The agreement described in subsection (d) must require the delivery of the voting system to each county described in this SECTION before January 1, 2006, for use in all elections conducted in the county after December 31, 2005.

(f) This SECTION expires December 31, 2006.

SECTION 148. [EFFECTIVE UPON PASSAGE] (a) IC 3-9-4-20, as added by this act, applies to a committee that has been notified

1 by the election division of a proposed civil penalty under IC 3-9
2 before January 1, 2006.

3 (b) This SECTION expires January 1, 2006.

4 SECTION 149. [EFFECTIVE UPON PASSAGE] (a) The
5 definitions in IC 3-5-2 apply throughout this SECTION.

6 (b) A county voter registration office may provide original copies
7 of the county's voter registration applications and other voter
8 registration records to:

9 (1) the state; or

10 (2) an entity acting as the state's agent under a contract
11 between the entity and the state;

12 for the purpose of optically scanning information set forth on the
13 applications and records so that this information can be included
14 in the statewide voter registration computerized list to be
15 established under IC 3-7-26.3.

16 (c) If a county voter registration office provides original copies to
17 the state under this SECTION, the state and the state's agent shall
18 take all necessary and prudent steps to safeguard and preserve the
19 county records during the time the state or the state's agent has
20 custody of these records. The state or the state's agent shall
21 promptly return the original records to the county voter
22 registration office upon completing the optical scanning described
23 in subsection (b).

24 (d) If a county voter registration office provides original records
25 to the state or the state's agent under this SECTION, the county,
26 the county voter registration office, the circuit court clerk, each
27 member of the county board of registration, and each employee of
28 the county voter registration office are not liable, in either an
29 official or individual capacity for any loss or damage that occurs to
30 the county voter registration records during the time the state or
31 the state's agent have custody of these records. The state's agent
32 must assume full liability for any loss or damage to these records
33 before taking custody of these records from the county voter
34 registration office.

35 (e) This SECTION expires March 31, 2006.

36 SECTION 150. An emergency is declared for this act.

(Reference is to EHB 1407 as reprinted April 7, 2005.)

Conference Committee Report
on
Engrossed House Bill 1407

Signed by:

Representative Richardson
Chairperson

Senator Lawson C

Representative Mahern

Senator Breaux

House Conferees

Senate Conferees